Vol. V

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1943

No. 409

TENNESSEE COAL, IRON & RAILROAD COMPANY, SLOSS-SHEFFIELD STEEL & IRON COMPANY AND REPUBLIC STEEL CORPORATION, PETITIONERS,

vs.

MUSCODA LOCAL No. 123, ETC., ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR CERTIORARI FILED OCTOBER 4, 1943.

CERTIORARI GRANTED NOVEMBER 15, 1943.

VOLUME V.

TRANSCRIPT OF RECORD

UNITED STATES
CIRCUIT COURT OF APPEALS
FIFTH CIRCUIT.

No. 10278

TENNESSEE COAL, IRON & RAILROAD COMPANY,
Appellant,

versus

MUSCODA LOCAL No. 123, ETC., ET AL.,
Appellees.

SLOSS-SHEFFIELD STEEL & IRON COMPANY,
Appellant,

versus

SLOSS RED ORE LOCAL No. 109, ETC., ET AL.,
Appellees.

REPUBLIC STEEL CORPORATION,
Appellant,

versus

RAIMUND LOCAL No. 124, ETC., ET AL.,
Appellees.

Appeals from the District Court of the United States for the Northern District of Alabama.

(ORIGINAL RECORD RECEIVED APR. 1 42.)

Cross Examination.

(By Mr. Burr):

Q. Louis, when did your first mining experience begin, about when?

A. My first mining experience began in 1918.

Q. Was that with the Republic Company?

A. The Republic Company.

Q. Your whole experience has been with the Republic Company?

A. No, sir. I have worked briefly for the Woodward Iron Company and about seven years for the Sloss-Sheffield at Sloss Ore Mine.

Q. Has all that experience been in the ore mines?

A. With the exception of a brief period in 1921 I worked for the Empire Coal Company at Hull.

Q. With the exception of that time your experience has been in the ore mines on Red Mountain?

A. Yes, sir.

Q. And mostly with the Republic Company?

A. And mostly with the Republic Company.

Q. And you have been with the Republic Company this last time continually how long?

A. I have been continuously with the Republic Company about the last twelve years.

Q. And before that you worked with the Republic Company off and on?

A. Yes, sir.

Q. And before that was most of your time with the Republic Company?

A. I started as a kid with the Republic Company in 1918, and I worked a while and they shut down and I went to Sloss and then came back to Raimund and worked until now.

Q. When you worked at Sloss, where did you work?

A. I worked in Number 2 mine.

Mr. Burr:

Let me have Exhibit 23 you introduced there.

Q. This rule book here, Louis, Mr. Harris showed you bears the date of November 1, 1935. Do you know whether or not it has been revised several times since then, or more than once since then, or any time at all?

A. No, sir, I couldn't definitely say. I know we have added some rules since that time. I don't know whether they have been printed or not.

Q. You don't know whether this is the rule book in force in 1940 or not?

A. No, sir, I couldn't say.

Q. Or 1939 or 1938?

A. It looks like the one.

Q. The back of it, you mean?

A. Yes, sir.

Q. Have you read this all the way through?

A. Not all the way through.

Q. Have you read it at all?

A. Not this particular one.

Q. Have you had this particular one?

A. I don't know—

Q. Where is your book?

A. I don't know where it is.

Q. This isn't your book?

A. I don't know.

Q. Have you given Mr. Harris your book?

A. No, sir.

Q. Did you give anybody your book?

A. I think I gave Mr. Lipscomb my book.

Q. When did you give it to him—

Mr. Harris:

We object to that.

Mr. Burr:

I am trying to find out whether it is the right book.

The Court:
Has it got—

Mr. Burr:
I know this is not the right book. The book has been revised.

Mr. Harris:
Give them to us. We will be glad to have them.

Mr. Burr:
You haven't asked for them.

The Court:
He testified on direct examination that was the only one he knew about.

Mr. Harris:
All we want is the book. If he will give us the latest one—

Mr. Burr:
I never have failed to give you anything yet you asked for.

Mr. Harris:
I haven't offered it in evidence.

Mr. Burr:
You haven't offered it?

Mr. Harris:
No. I merely put it in for identification because I wasn't sure it was the last book.

Mr. Burr:
Well, I didn't know that. If I had known that I could have saved all this examination.

Q. Louis, you were a driller—you were in charge of how many muckers, did you say?

A. Well, I am charge directly of two muckers on the day shift. However, there are three muckers work in my place at night.

Q. When do you shoot, in the afternoon?

A. Yes, sir, in the afternoon.

Q. At what time?

A. Now?

Q. No, before May 1, 1941?

A. Three o'clock.

Q. You shoot at three o'clock?

A. Yes, sir.

Q. Then do you go off at three o'clock?

A. Yes, sir.

Q. Was that the end of your shift?

A. Yes, sir.

Q. Then the muckers that came on after you loaded during the night what you had shot?

A. Yes, sir.

Q. Then you and two other muckers went back the next morning and you drilled and they loaded?

A. Yes, sir.

Q. That is the way it was done?

A. Yes, sir.

Q. Now, is that the same practice that you have been engaged in during the two years before May 1, 1941?

A. Yes, sir.

Q. Now, is that the same practice that you have been engaged in during the two years before May 1, 1941?

A. Yes, sir.

Q. In a general way have you been doing it in the same way ever since you have been working there?

A. Yes, sir.

Q. Substantially the same?

A. Yes, sir, substantially the same.

Q. You have been riding the same sort of skip and depositing your check in the same way and walking to your working place in the way way and doing your work in the same way?

A. Practically the same.

Q. And getting paid in the same way?

A. I suppose so.

Q. Now, these divisions or parts there that Mr. Harris refers to as the bull pen, there is one on top, isn't there, or near the top?

A. Yes, sir.

Q. That is where the men go in just before they take the cage, before they take the man trip?

A. Yes, sir.

Q. That protects you from the weather?

A. Yes, sir, it protects you from the weather.

Q. That place is just like this room,—I know it is not as pretty and hasn't got these walls, but it has a gate there?

A. Yes, sir.

Q. And what you mean by Mr. Harris' question of counting out, they will let the number in that it will take to load the drag; the mine foreman or assistant mine foreman counts the men as they come in to see there are not too many to go on the drag; is that what you mean?

A. Well, they will let as many come in as wants to come in, but letting them out—

Q. That is what I mean, where he lets them out to get on the skip.

A. Yes, sir.

Q. That is where he does the counting?

A. Yes, sir.

Q. How many does he let on a skip?

A. Usually thirty or thirty-one or two.

Q. And when he gets over that he holds up his hand and stops the others from coming in, or he may say, "We have got a load"?

A. Yes, sir.

Q. That is the counting that is done?

A. Yes,—

Q. Just counting numbers?

A. Yes, sir, sure.

Q. When you deposit your check there it is hung up on a nail to indicate where your working place is?

A. Yes, sir.

Q. And you get your lamp at a point nearby, I believe you said?

A. Yes, sir.

Q. It takes just a fraction of a minute to do those two things, doesn't it, Louis?

A. Yes, sir, takes a little while.

Q. Just a very short while?

A. Yes, sir.

Q. Now, on this tonnage basis that you have told Mr. Harris about in answer to his questions, you say you and your crew generally got out six cars?

A. Usually six cars.

Q. Is that on the shift? Is that on the one shift, or what?

A. On the one shift. On the day shift. I was only speaking about the shift I work on.

Q. I see. Well, would they get out about that many on the night shift too, load about that many?

A. Usually they would get out nine at night and six in the day. Of course, in the course of a month there would be bad days.

Q. That is true. Sometimes you would have good days and sometimes bad days?

A. Yes, sir.

Q. But the usual course of things was six in the day and nine at night?

A. Yes, sir.

Q. This envelope you have shown us where you were paid off, I believe you said, twice a month?

A. Yes, sir.

Q. During this period of time?
A. Yes, sir.

Mr. Burr:
Has this been offered in evidence?

Mr. Harris:
Yes, sir, I offered it in evidence.

Q. This one here that is identified as Defendants' Exhibit 24, that is for the pay period ending July 15, 1941, isn't it, Louis?
A. Yes, sir.
Q. Before you got this you got a statement?
A. Yes, sir, I got a statement.
Q. The statement showed your earnings, how they were estimated and what the total amount was?
A. Yes, sir.
Q. And showed the deductions that came off?
A. Yes, sir.
Q. And showed how much cash you were to get?
A. Yes, sir.
Q. And you would take that statement and go to the pay window and sign a receipt and get your money in an envelope like this?
A. Yes, sir.
Q. All the statements had about the same thing on them, leaving out the T. T. for the present? It showed the date, the 26 $114.60, so many tons and so much yardage at $7.20; what would that yardage be for?
A. That is the recent raise of ten cents on the hour.
Q. That is what that is; that is the ten cent raise that went in effect on April 1st—
A. Yes, sir.
Q. —this year?
A. Yes, sir.
Q. That is the total, and your deduction showed the F. O. A. B. tax and Alabama unemployment tax and the

other deductions taken off that and the amount you got in cash?

A. Yes, sir.

Q. That shows you made that two weeks period $162.14, and your deduction was $95.20, which consisted of tax $1.09, tax 90 cents, checks on store thirty-eight forty, commissary thirty-four eighty-five, and miners' supplies?

A. Yes, sir.

Q. That is the tool and powder you bought?

A. Yes, sir.

Q. And a safety lamp?

A. Yes, sir.

Q. The balance in cash was $66.94?

A. Yes, sir.

Q. Would you say that was a pretty good average month for you, Louis? Is that about the way you averaged?

Mr. Harris:

Average two weeks.

Q. Average two weeks; is that about the average; is that about the way you averaged?

A. A pretty good average, more or less.

Q. I mean about the average?

A. About the average.

Q. About the average?

A. Yes, sir.

Q. Of course, the statement that you turned in would show all these items, opposite each place on the statement?

A. I didn't understand you.

Q. The statement you turned in to get your envelope and the money there showed all these items itemized on the statement?

A. Yes, sir.

Q. I understood you to say about your union attendance—I am not particularly interested in it, but I under-

stood you to say after the men learned about the settlement of the T. C. I. Labor Relations Board Case your attendance began to increase?

A. Yes, sir.

Q. That is when you got your uplift?

A. Yes, sir; that is when they began to come back.

Mr. Burr:

That is all.

Mr. Harris:

That is all.

(Witness excused.)

Mr. Harris:

Call Mr. Powell.

3023 VIRGIL POWELL, being called as a witness and being duly sworn, testified as follows:

Direct Examination.

The Court:

What are your initials?

The Witness:

Virgil Powell.

(By Mr. Harris):

Q. How old are you, Mr. Powell?

A. Thirty-one.

Q. Where were you born?

A. Parkwood, Alabama.

The Court:

How old did you say you are?

The Witness:
Thirty-one.

Q. Where do you work?
A. Raimund.
Q. How long have you been working at Raimund for the Republic?
A. Eight years.
Q. What?
A. Eight years.
Q. What kind of work do you do?
A. Run a hoist engine.
Q. Is that a production man or a company man?
A. It is a company man.
Q. How long have you been running a hoisting engine?
A. Approximately five years.
Q. Were you running a hoisting engine out there in October, 1938?
A. Yes, sir.
Q. And continued to run it up until May 1, 1941?
A. Yes, sir.
Q. Where was your hoisting engine during that period of time?
A. It is in the bottom of the mine at the storage pocket.
Q. Near the ammunition dump or near some other pocket?
A. It is a storage pocket where all the ore is dumped in.
Q. Storage pocket?
A. Yes, sir.
Q. I misunderstood you. I thought you said stores. How far is that from the mouth of the mine?
A. About 2500 feet.
Q. Well, do you work on the day shift or the night shift?
A. Day shift.

Q. Now, starting in October, 1928,—October 24, 1938, what time did you show up at the mouth of the mine at the beginning of your shift?

A. Around six or six fifteen.

Q. Well, did you have any brass check that you turned in to anybody?

A. Yes, sir.

Q. To whom did you turn your tag in as a service man, a company man?

A. The timekeeper.

Q. Where was he?

A. He was inside the tally house.

Q. Did you have any regular man trip you caught down in the mine?

A. Usually I would go down around 6:20 or 6:30.

Q. Then, when you had completed hoisting and had traversed the mine on the way out, what time would you pick up that brass check in the afternoon?

A. Around 3:30.

Q. So that from the time you entered the mine at 6:15 you were underground until around 3:30?

A. Yes, sir.

Q. Did that obtain all the time from October 24, 1938, up until May 1, 1941?

A. Well, sometimes it would vary a little bit one way or the other.

Q. Well, did the service and the company men in that mine catch the same man trip the production men did?

A. Yes, sir.

Q. And came out together, came back out on the same man trips with the production men?

A. Yes, sir.

Q. In pulling ore where you are, did you, during those three years, pull any man trip with your hoist?

A. Not with the hoist. I did with the motor.

Q. You mean with an electric motor?

A. Yes, sir, electric locomotive.

Q. You had an electric locomotive you hauled them with?

A. Yes, sir.

Q. Where did you haul the men?

A. I hauled them from the waiting place over on the man—they called it the mule lot where an old mule barn was. They have a waiting station there. I would go and pick them up and carry them to Number 2.

Q. Well, did you have any regular time to go and pick them up?

A. Well, as soon as the run was over, as soon as we stopped pulling the ore.

Q. And did you have any regular time for the run to be over?

A. Well, it was supposed to be, but occasionally we pulled until five minutes after three,—sometimes one or two trips past three.

Q. How long did it take to pull a trip?

A. Well, around five to eight minutes.

Q. Well, if you pulled two trips after three, that meant those men were at the mule road waiting for you to get through pulling ore cars and switch them and get the man cars and pull them out after that?

A. Yes, sir.

Q. When you worked that overtime you got paid for it, didn't you?

A. Yes, sir.

Q. Now, when you got to the hoodlum on the way out, would you, as a company man, be counted out just the same as the production men by a mine foreman or somebody else?

A. Yes, sir.

Q. Was that true of all the service and company men?

A. Yes, sir.

Mr. Harris:

You can take him.

By Mr. Burr):

Q. Mr. Powell, was your first experience—did your first experience in the ore mines begin just three years ago, or had you worked previous to that time?

A. Well, I had worked August, 1933, to December, 1933, there.

Q. In the same mine?

A. Yes, sir.

Q. Same sort of work?

A. Well, I was running a motor at that time.

Q. That was August, 1933, until when?

A. December, 1933.

Q. Was that a motor inside the mine—

A. Yes, sir.

Q. —that you ran?

A. Yes, sir.

Q. Then, with that exception, all your work has been running this hoisting engine?

A. Well, I did work at Spaulding while I was away from Raimund.

Q. You worked over at Spaulding?

A. Yes, sir.

Q. When did you work at Spaulding?

A. That was '33 until about the latter or first part of 1937.

Q. Was that before Spaulding reopened this last time?

A. Yes, sir.

Q. All right, sir. When you were operating this hoist engine—Does that hoist engine haul the ore?

A. Yes, sir.

Q. From the different working places to the rotary dump or the storage place?

A. No. The locomotive brings it in there on the yard and when it goes back I handle the cars to the pocket.

Q. You pick it up and handle it to the pocket?

A. Yes, sir.

Q. And you also handle—After the run is over you handle the cars for the purpose of hauling the men what they call up the hill?

A. Occasionally.

Q. Is that what you call the mule lot?

A. Yes, sir.

Q. There have been no mules there in quite a long time?

A. They used to have mules—

Q. There haven't been any mules there since you have been working there?

A. Yes, sir; there have been mules there since I have been working there.

Q. When were the mules there?

A. In 1936.

Q. That didn't have anything to do with you hauling the men?

A. No, sir; they had been moved from this lot. It was old.

Q. You rode down on the man skip just like everybody else did?

A. Sometimes we would have to brace ourselves to hold the next man above us off us.

Q. I understand you braced yourself to hold people off you, but you rode down like everybody else did?

A. Yes, sir.

Q. And always did ever since you have been going down there?

A. Yes, sir.

Q. And when you got down to the bottom—what you did at the top was deposit your check?

A. Yes, sir.

Q. And got your lamp?

A. Yes, sir.

Q. And then got on the skip, after being counted on there—You mean by that the mine foreman would let go through the gate the number they wanted on the skip so as not to be over crowded?

A. Yes, sir.

Q. Something of that sort?

A. Yes, sir.

Q. That is what you mean by being counted out?

A. Yes, sir.

Q. Then you rode down?

A. Yes, sir.

Q. Your hoisting engine was about how far from the place you got off the skip?

A. It was half a mile or better.

Q. Did you walk over there?

A. Yes, sir.

Q. You got to the hoisting engine, and that is the first actual work you did, when you got to the hosting engine?

A. Yes, sir.

Q. Then you commenced running that engine and ran it for eight hours?

A. Yes, sir.

Q. If you ran it over eight hours you got paid for it, didn't you?

A. Not every time.

Q. Well, whenever—

A. If we ran as much as an hour overtime, we got paid for it. If you just ran five or ten minutes over time, we didn't.

Q. Do you know what days you were five or ten minutes over? Did you keep any record of it?

A. No, sir.

Q. Did you ever make any report to anybody you were five or ten minutes over?

A. No, sir.

Q. Well, that was just occasionally?

A. Well, it happened sometimes once or sometimes twice a week.

Q. Is that the time you say the run wouldn't be over?

A. Yes, sir.

Q. Is that what kept you five or ten minutes over?

A. Yes, sir.

Q. Those were the same occasions on which you say that men at the loading station, if they were there, were delayed five or ten minutes?

A. Yes, sir.

Q. I see. Was the loading station in sight of where your hoisting engine was running?

A. No, sir.

Q. Then, of course, you don't know as to what time they got to the loading station or how many got there or how many were gone, or anything about that?

A. No, I don't know.

Q. All you know, you were occasionally delayed five minutes or so in order to finish the run?

A. Yes, sir.

Mr. Burr:

I believe that is all.

Mr. Harris:

I think that is all, Mr. Powell.

(Witness excused.)

Mr. Harris:

If the Court please, except for the introduction of documents, and which may require perhaps one or two witnesses,—I want to check up,—it has been a rather long case, and I proceeded as fast as I could in the introduction of my evidence, and I want to check the records,—that substantially completes the witnesses I want to put on. I don't mean to close my case now, because the defendants are trying it as a unit, but I make this statement as notice to the other gentlemen, so to speak.

And I also told the gentlemen on my side of the table this morning I thought I would be through, for the most part, with my case by Your Honor's afternoon recess, and I presume they are ready to go on.

There are a number of documents I have asked the gentlemen for in a subpoena, and, of course, I want to study them tonight. Mr. Burr has arranged to have some of them brought here this afternoon.

Mr. Burr:

I will have the minutes for you tonight. We haven't finished with the maps.

The Court:

I think we had better have a few minutes recess.

Who will take up next?

Mr. Smith:

We have some witnesses.

The Court:

We will take a three or four minute recess.

(Thereupon proceedings were in recess from 2:50 P. M. until 2:55 P. M., at which time proceedings were resumed as follows:)

Mr. Spencer:

Mr. Headrick, please.

3032 W. R. HEADRICK, being called as a witness, and being duly sworn, testified as follows:

Direct Examination.

(By Mr. Smith):

Q. What is your name, please, Mr. Headrick?

A. Headrick.

The Court:

What are your initials?

The Witness:

W. R.

Q. Mr. Headrick, what company do you work for?

A. T. C. I.

Q. How old are you?

A. Forty-seven.

Q. How long have you been working for them?

A. About five years this last time.

Q. Five years?

A. I worked off and on for about twenty-five years.

Q. What has been your experience in ore mines since you began to be a miner?

A. Well, I have been in the mines all my life.

Q. All your life?

A. Yes, sir.

Q. What mines?

A. The Republic people and T. C. I.

Q. The Republic people and T. C. I.?

A. Yes, sir.

Q. Ore mines?

A. Yes, sir.

Q. What mine are you at now?

A. Number 4.

Q. Number 4?

A. At Muscoda.

Q. At Muscoda?
A. Yes.
Q. You have been there five years?
A. Yes, sir.
Q. This last time?
A. Yes, sir.
Q. You have been there since October 24, 1938?
A. Yes, sir.
Q. What is your occupation there?
A. Service foreman.
Q. Service foreman?
A. Yes, sir.
Q. Tell the Court what the duties of a service foreman are.
A. Well, I am laying track.
Q. Laying track?
A. Yes, sir; anything that comes necessary.
Q. You are all over the mine?
A. Yes, sir.
Q. Where do you report in the morning at the beginning of the shift?
A. At the tally house.
Q. What time do you report there?
A. Six o'clock.
Q. Six o'clock?
A. Yes, sir.
Q. That is the time you hang up, I believe, the brass checks?
A. Yes, sir.
Q. In the meantime you have been to the bath house and got your carbide light?
A. Yes, sir.
Q. And you hang up your check?
A. Yes, sir.
Q. Now, from that time, Mr. Headrick, just what do you do?

A. Well, we—after we check in, why, we catch the first skip that comes handy, usually.

Q. What time do you check in, six o'clock?

A. Six o'clock.

Q. Yes, sir.

A. We go down and then we leave the man unloading place and go out in the territory to our working place.

Q. How long does it take you to get from the top of the mine to your man unloading place?

A. Some thirty or forty minutes.

Q. Some thirty or forty minutes?

A. Yes, sir.

Q. You mean from the top of the mine to the man unloading place?

A. I thought you meant from the tally house.

Q. From the tally house to the man unloading place?

A. Yes, sir.

Q. About how long?

A. About 25 to 30 minutes to our working place,—

The Court:

He is not asking you that.

Q. I am asking you about how long from the time you leave the mouth of the mine until you get to the man unloading station?

A. Oh, that is some five minutes.

Q. Five minutes?

A. Yes, sir.

Q. You will unload there?

A. Yes, sir.

Q. And go to your working place?

A. Yes, sir.

Q. Where is your working place?

A. Well, at different places. Possibly we will go over to one place one day and the next day to another.

Q. Where do you get your orders to go when you leave the top of the mine?

A. At the tally house.

Q. Who gives you your orders?

A. The mine foreman or assistant mine foreman.

Q. The mine foreman or assistant mine foreman?

A. Yes, sir.

Q. As to where you are to go when you leave the man unloading station?

A. Yes, sir.

Q. That takes you all over the mine?

A. Yes, sir, different places.

Q. What time do you leave the mine coming back?

A. You are not speaking of the present time?

Q. Up to May 1st?

A. We will generally check out around a quarter of four.

Q. Now, since May 1st?

A. Sometime around four o'clock.

Q. Since May 1st what time do you check out?

A. We check out now around 2 and 2:30,—between 2 and 2:30.

Q. Are you familiar with the operations up there when the man skip starts going down in the mine?

A. I think so.

Q. Who has charge of the man skip?

A. The assistant mine foreman.

Q. The assistant mine foreman?

A. Yes, sir.

Q. Does he give the men orders where to go and what to do there?

A. Yes, sir.

Q. Do they have any tools with them they carry down on that man trip?

A. Yes, sir, we used to have to carry down our new tools we went to the supply house and got, such as picks and shovels.

Q. Does that apply to the service crews too?

A. Yes, sir. I am speaking of my crew.

Q. Speaking of your crew?

A. Yes, sir.

Q. The men that actually do the mining, do they take down—

A. Yes, sir; they took down hangers and wedges and necessary tools to do their work with.

Q. They stopped by the man unloading station?

A. Yes, sir.

Q. From the man unloading station to where they go to mine the ore, do they take any tools?

A. Yes, sir, their new stuff, such as wedges and hangers and such as that.

Q. Did they have their lights, carbide lights they used there?

A. Yes, sir.

Q. Now, just what do you carry down, your crew and you?

A. Well, we carry down when we need it—our supply of tools runs short, we carry down picks and shovels and hammer handles, pick handles.

Q. What part of the skip did you carry those in?

A. Well, we had a little basket under the bail, that hung under the bail of the skip, and we would put our tools in that little basket.

Q. At the top of the mine, before the skip started out, where did you get those tools from?

A. At the supply house.

Q. How far is the supply house from the top of the mine or collar of the mine there?

A. Oh, I would say some four hundred feet.

Q. You would carry them over there and put them in this bail?

A. Yes, sir.

Q. When you got to this man unloading place, you would take those tools out of the bail?

A. Yes, sir.

Q. And carry them to whe ever you needed them?

A. Yes, sir, to our working place.

Q. What tools did you mostly carry to do your work with?

A. Picks, shovels, hammers, hammer handles—

Q. How many were in your crew during that time?

A. Well, it ranges from six to twelve.

Q. Six to twelve?

A. Yes, sir.

Q. Now, what orders—you were the head of that crew?

A. Yes, sir.

Q. What orders did you give those men on that crew at the top of the mine?

A. I didn't give them any orders at the top. I waited until we got to the bottom and unloaded and told them where to go.

Q. Did anybody give you orders where to go at the top of the mine?

A. Yes, sir.

Q. Suppose you had a vacancy in your crew; what would you do about that?

A. If there was an extra, I got him and put him on the crew.

Q. Who would you speak to about getting that man?

A. Well, the mine foreman or tally house man at the check in usually.

Q. Then after that you went down to the man unloading station?

A. Yes, sir.

Q. From the top of the mine?

A. Yes, sir.

Q. Then you were in charge of the crew from that point on?

A. Yes, sir.

Q. What orders did you give them in reference to their working places and tools?

A. I would take them and we would go to our working place,—take our tools.

Q. Did you have any directions where your working place would be? What part of the mine?

A. Yes, sir; I knew where I was going.

Q. You knew?

A. Yes, sir.

Q. Knew that at the top?

A. Knew that at the top.

Q. When you got down there and you got unloaded you directed your crew where to go?

A. Yes, sir.

Q. And you carried these tools, you and your crew, to these places where you and your crew would work?

A. Yes, sir.

Q. And that was during the period from October, 1938, up to May 1, 1940?

A. Yes, sir.

Q. 1941, I mean.

A. That is right.

Mr. Smith:

That is all.

Cross Examination.

(By Mr. Burr):

Q. Mr. Headrick, you say you have been working for the Tennessee Company off and on for twenty-five years; is that right?

A. Yes, sir.

Q. You have also worked for the Republic Company?

A. Yes, sir.

Q. Which one of those companies have you worked the longest for, do you think?

A. For the Republic.

Q. For the Republic?

A. Yes, sir.

Q. About how many years did you work for the Republic Company?

A. About 13 or 14 years.

Q. And you say you have been in the mines working practically all your life?

A. Yes, sir.

Q. Has it all been in the ore mines?

A. Yes, sir.

Q. Out here on the mountain?

A. Yes, sir.

Q. Just those two companies?

A. Just those two companies.

Q. Have you always been what they call a company man, that is, on a day rate, hourly rate?

A. Yes, sir; I have done a little bit of everything.

Q. But your principal work has been on service crews?

A. Yes, sir.

Q. For how long now have you been a foreman of the track crew out at Muscoda Number 5?

A. Five years.

Q. Five years. Now, during all the period of time you have worked on service crews out there, has the custom and practice been about the same, the way you handle your job and your men, as you told Mr. Smith?

A. Up until May—

Q. We will forget May 1st.—Up until then it has always been the same?

A. Yes, sir.

Q. You would go to the tally house every morning? You had to go there to get down in the mine?

A. That is right.

Q. You got your carbide and have always gotten it?

A. Yes, sir.

Q. The company sells it there?

A. Yes, sir.

Q. Then you have a check and you turn the check in?

A. Yes, sir.

Q. Now, your work as track man—do you work in the same place more than one shift, or do you have a job you don't have to be told to go back to you know you haven't finished?

A. Most of the time it is that way.

Q. That is what I thought. Most of the time you don't have to ask—it is only when you have finished your job you have to ask the foreman where your next place is?

A. No, the foreman—something might happen between shifts.

Q. And if he wants to change you he would tell you?

A. Some breakdown or wreck or tear-up in a different locality of the mine, he would tell me every morning where we were supposed to work.

Q. He would know about that from the report he got from the other shift?

A. Yes, sir.

Q. He would tell you and it was your business to tell your men?

A. Yes, sir.

Q. You say you would catch the skip it was convenient to catch?

A. That is right.

Q. You would go down—you would always assemble your men at the tool house?

A. Yes, sir.

Q. That tool house was pretty close—how far from the underground man loading station?

A. At the present, I would say it is 150 feet.

Q. You say at the present: you mean for the past three or four years—

A. No, it has been changed.

Q. Where was it during the period before May 1, 1941?

A. I would say about the same distance.

Q. You would get off the skip you came down on and go to the tool house?

A. Yes, sir.

Q. Would you meet all your men there when you got there or would they sometimes come after you got there?

A. Sometimes they would be there and sometimes they would come afterwards.

Q. There was no schedule?

A. No, sir.

Q. No settled rule?

A. No, sir.

Q. They caught whatever skip was convenient?

A. Yes, sir.

Q. Your work time started at the tool house at 6:45?

A. Yes, sir.

Q. That is when your pay started?

A. Yes, sir.

Q. You waited there until 6:45, and then you went to the place where you had been told to go?

A. No, sir. We didn't pay any attention to the time. After we got there—we all went on to our working place after we all got together.

Q. After you all got together?

A. Yes, sir.

Q. When you left your tool house depended on what time your crew got together?

A. Yes, sir.

Q. That is where you waited for your crew?

A. Yes, sir.

Q. That is where you got them together?

A. Yes, sir.

Q. And your pay started at 6:45?

A. Yes, sir.

Q. Up until May 1st?

A. Yes, sir.

Q. What time did you quit laying track?

A. The mine foreman, as a rule, gave us about fifteen minutes to come from our working place to wherever we put our tools.

Q. Come from your working place to the tool house?

A. Yes, sir.

Q. What time were you supposed to be back to the tool house, around three o'clock?

A. Yes, sir, three o'clock.

Q. Three o'clock?

A. Yes, sir.

Q. You would get back to the tool house at three?

A. Yes, sir.

Q. And then you would deposit your tools there, would you?

A. Yes, sir.

Q. And then go down and catch the first skip out—

A. When they turned you aloose. You went in rotation in the bull pen.

Q. You went in this bull pen? They would let the ones that got there first go out first?

A. That is right.

Q. Line them up on those seats?

A. Yes, sir.

Q. And I imagine you, being the foreman,—you would probably get down after your crew; you would have to stay behind to see that everything was in order?

A. As a rule I did.

Q. And you would always make out the report on your men?

A. Yes, sir.

Q. Turn it in each day?

A. Yes, sir.

Q. If you worked over time or your men worked over time you would make out that statement?

A. Yes, sir.

Q. And give it to the foreman?

A. Yes, sir.

Q. And they would get paid for overtime?

A. Yes, sir.

Q. On time and a half?

A. Yes, sir.

Q. You talked about getting tools. That—the tools wore out?

A. Yes, sir.

Q. You would have to get new picks sometimes?

A. Yes, sir.

Q. And new shovels sometimes?

A. Yes, sir.

Q. And you would have to get new handles for your hammers sometimes and a new hammer sometimes?

A. Yes, sir.

Q. As a good foreman, you tried to make picks and shovels and hammer handles last as long as you could, of course?

A. I did.

Q. It wasn't every morning you had to get these articles?

A. No, sir.

Q. When you had to get them would you send a man down to the tool house?

A. I would send a man to the tool house, or two.

Q. Depending on what was needed?

A. On what was needed, yes, sir.

Q. Would you get a requisition from the mine foreman?

A. Yes, sir.

Q. These were replacements?

A. Yes, sir.

Q. The tools you could still use you would leave in the tool box every evening?

A. Yes, sir.

Q. They would go to the supply house and get these replacement tools?

A. Yes, sir.

Q. They would bring them up on a truck if they wanted to?

A. If convenient, yes, sir.

Q. They had a little truck up there that would bring them up, and then they would get on the skip and go on down and join you at your place?

A. That is right.

Q. The supply house was never unlocked until 6:30 in the morning, between 6:30 and 7:00?

A. I think so. I never did go myself. I sent them.

Q. You sent them?

A. Yes, sir.

Q. That meant the man couldn't get the tools until it was opened about 6:30 or 7:00, and then he would have to carry them how far?

A. Some 400 feet.

Q. And then wait and catch a skip?

A. Yes, sir.

Q. Before getting on down to your tool box?

A. Yes, sir.

Q. How many men did you say there were in your crew, Mr. Headrick?

A. It runs from six to seven; it is owing to the number of men.

Q. You had a track crew?

A. Yes, sir.

Q. There were a number of other crews?

A. Yes, sir.

Q. They were handled about in the same way your crew was?

A. Yes, sir.

Q. You said something to Judge Smith about some of the producing crews, that you saw them sometimes carry wedges and hangers?

A. I did.

Q. They put those in that same little basket in front there; that is where they put them?

A. They did.

Q. That basket was about how big?

A. I would say about three foot long, about 15 or 18 inches—I would say 18 inches wide.

Q. Of course, I don't suppose, Mr. Headrick,—you don't know personally except what you saw—

A. No, I never measured it.

Q. I don't mean that. You never worked in the stopes with the producing crews?

A. Not in the last years.

Q. You don't know the conditions under which they carried the wedges down or who made the arrangements or anything about that, I don't suppose?

A. No. That belonged to the stop fellows.

Mr. Burr:

That is all.

Re-Direct Examination.

(By Mr. Smith):

Q. Mr. Headrick, let me ask you this: When you go to the tally house, you have been to the bath house first?

A. Yes, sir, to change clothes.

Q. You report there to the tally house in your work clothes?

A. Yes, sir.

Q. And hang up your brass check?

A. Yes, sir.

Q. And then you catch the skip down as you testified before?

A. That is right.

The Court:

What time did you hang up—take your check up; what time did you get up on the ground?

The Witness:
In the afternoon?

The Court:
Yes, sir.

The Witness:
From fifteen minutes of four until four o'clock.

Mr. Harris:
I want to ask him one question if I may.

The Court:
Yes, sir.

(By Mr. Harris):
Q. Mr. Burr asked you if the customs and practices are substantially the same. As I understand, you are a track man?
A. Yes, sir.
Q. I will ask you if for the period October 24, 1938, up to the present time in Mine Number 4, the conditions of the track in the main haulage ways and main passage ways and the main slope have been substantially the same?
A. Well, yes, I would say so.

Mr. Harris:
That is all.

Re-Cross Examination.

(By Mr. Burr):
Q. You walk over them, don't you, Mr. Headrick?
A. Sir?
Q. You walk over those haulage ways and passage ways and slope?

A. Yes, sir.
Q. You have never been hurt on any of them?
A. No, sir.
Q. You get along all right?
A. Yes, sir, I get along pretty well.
Q. About as good walk ways as you find in any mine?
A. Yes, sir.

Mr. Burr:
That is all.

The Court:
I want to ask one question. You say you check in about six o'clock in the morning?

The Witness:
Yes, sir.

The Court:
And you are paid from 6:45 every morning?

The Witness:
Yes, sir.

The Court:
You are not paid from six to six forty-five?

The Witness:
No, sir.

The Court:
How many hours are you supposed to work?

The Witness:
Eight hours.

The Court:
And all over that you get time and a half?

The Witness:
Yes, sir.

The Court:
You do not get any pay when you check in at the tally house?

The Witness:
No, sir.

(By Mr. Burr):
Q. When you talk about checking in you mean turning in your check?
A. My check number that I work under.
Q. And all you do from the time you get there and check is is what you have told us?
A. Yes, sir; I don't do anything. I may have the men to do something. I figure after I checked in I was subject to orders and the men were subject to my orders.
Q. You felt that way?
A. Yes, sir; that is the way it is.
Q. All you do is you change your clothes?
A. Yes, sir.
Q. And deposit your check?
A. Yes, sir.
Q. And get your carbide?
A. Yes, sir.
Q. The mine foreman tells you what to do?
A. Yes, sir.
Q. And you send your men to the supply house?
A. Yes, sir.
Q. And they get the tools?
A. Yes, sir.

Q. And they join you inside?
A. Yes, sir.

Mr. Burr:
That is all.

Re-Direct Examination.

(By Mr. Smith):
Q. After you get off at the manloading station you and your men get your tools and take them to where you work, do you wait until 6:45 to go to work?
A. No, sir; we didn't pay any attention to that.
Q. So, from the time you checked in up there until 6:45, you do what you have testified here?
A. Yes, sir.

Mr. Smith:
That is all.

Mr. Burr:
That is all.

Mr. Harris:
It seems when I was asking you a question I was guilty of a slip of the tongue. I didn't mean to limit it to May 1st.
Up to the present time the conditions have been the same in the haulage ways, passage ways and main slope?

The Witness:
I would think so, Mr. Harris.

Mr. Harris:
All right; that is all.

(Witness excused.)

Mr. Smith:

Come around, Mr. Fred Trammell.

3052 FRED H. TRAMMELL, being called as a witness, and being duly sworn, testified as follows:

Direct Examination.

(By Mr. Smith):

Q. Your name is Mr. Fred Trammell?

A. Yes, sir.

Q. Do you work for the Tennessee Coal, Iron & Railroad Company?

A. Yes, sir; I work at T. C. I. Number 6 at Muscoda.

Q. T. C. I. Number 6 at Muscoda?

A. Yes, sir.

Q. How long have you been working there, Mr. Trammell?

A. Since May, 1922.

Q. Since May, 1922?

A. Yes, sir.

Q. How old are you?

A. Thirty-seven.

Q. Thirty-seven. What jobs have you held during that time, Mr. Trammell?

A. Well, there have been a number of them.

Q. Well, let's recite them briefly.

A. Everything from hoisting engineer up to the present job.

Q. What is the present job?

A. The occupation is known as underground dispatcher.

Q. How long have you been an underground dispatcher?

A. Since May 1, 1936.

Q. Since May 1, 1936?

A. Yes, sir.

Q. What are the duties of the underground dispatcher?

A. Mostly looking after the transportation and haulage of the ore and materials.

Q. Ore and materials?

A. Yes, sir.

Q. Do you have anything to do with the hauling of the men?

A. No, sir.

Q. You don't have anything to do with what is called the man—

A. No, sir; that is all on the slope.

Q. Mr. Trammell, what time do you report there in the morning?

A. Well, I usually leave home about 5:30 and arrive at the bath house about ten minutes to six or a quarter of six.

Q. Then you change to your work clothes?

A. Yes, sir, and I get to the slope as near six o'clock as I can and always check in at six o'clock.

Q. You check in by depositing this brass check?

A. Yes, sir.

Q. And will your duties start right there?

A. I have four, sometimes five locomotive motormen and four trip riders.

Q. How many are there in your crew?

A. Eight usually.

Q. You are the head of your crew?

A. Yes, sir.

Q. Do you assemble this crew there at the tally house?

A. Most of the time. If any of the boys are going to be absent they usually send word by some of the other boys.

Q. Who is your superior boss there at the tally house?

A. The mine foreman and superintendent, and two assistants are under the mine foreman. I take orders from any of them.

Q. Do they give you orders there at the tally house?

A. Sometimes; not every morning.

Q. Since October 24, 1938, describe where you go and what orders you receive from him—

A. I don't go any place, but each crew reports to the other shift showing what has been done the previous shift and what is to be done—

Q. Is that report turned over to you?

A. No, sir. The mine foreman has it.

Q. The mine foreman has it?

A. All material is landed at the unloading station about 200 feet—

Q. Just a minute. When you report there does the mine foreman give you this sheet as to your work—

A. No, sir. He will tell me what he wants me to do.

Q. You have your crew there with you, and what man trip do you take?

A. Usually the first one; sometimes the second or third one.

Q. Where do you go from there?

A. To the material station.

Q. Is that near the man unloading station?

A. It is about 200 feet from it.

Q. When you get down there with your crew, what do you do?

A. It is our duty to get the drill steel, drills and such as that, dynamite, out to the headings before the men start.

Q. When you go down from the tally house do you carry any material, your crew?

A. No, sir.

Q. You get your material down in the mine?

A. Yes, sir.

Q. Near the man unloading station?

A. Yes, sir.

Q. How do you get that material to the places where you are actually—

A. If there is a drill or rope or skidder block or anything like that that is needed in a certain heading,—probably been broken down the night before,—the mine foreman will give me orders where to send those particular items to, and while we are loading the drill steel I will load these tools with the drill steel and mark them and tell the motor runner where to carry them to.

Q. What time does your pay start down there?

A. 6:45.

Q. What time does your crew go to work down there?

A. It varies. Very seldom we all ride the same trip. The man trip they get off of,—they go from there immediately to their locomotive.

Q. About what time do they go to work?

A. It runs from 6:15 to 6:45.

Q. And at 6:45 your pay starts?

A. Yes, sir.

Q. How long are you and your crew in the mine until you come out?

A. Well, they pull all us off at 10:30 and have thirty minutes for lunch time and start back at 11:00. It is very seldom we get all the locomotives at the station and placed properly that come in with the different trips before three o'clock. Usually we go to the man loading station about 3:05 to 3:10.

Q. What time do you get out?

A. About 3:20 if I catch the first trip.

Q. If you don't catch the first one?

A. About 3:30 if I catch the second trip; ranges from that time until 4:00 o'clock.

Q. Did you carry on these motor trips down there any of the hooks or materials for the miners going down on that trip?

A. Yes, sir, quite often.

Q. The miners, would they have them in their possession, or how would they carry them?

A. They would have brought them down with them from the outside, or either get them at the timber tunnel where the material station was.

Q. Where is the material station?

A. Just below the man loading station where all materials are unloaded.

Q. Are unloaded?

A. Such as timbers and steel and everything that is being used.

Q. And the men get that material there to carry it to the place of work?

A. Yes, sir, such as hangers and wedges, and sometimes they will bring them down on the man trip with them, and rather than carry them to the working places with them,—

Q. That is from the tally house?

Mr. Burr:

Judge, let him finish. I want to hear his answer.

The Court:

Go ahead.

Mr. Burr:

What were you trying to say?

Mr. Smith:

I think ~~you heard it the~~ first time.

The Witness:

Sometimes a man would bring down jackhammer steel or hangers or wedges. If they didn't need them the first thing they would leave them there at the material station for me to ship to them. If they needed to start with, they would take them on with them.

Q. If they needed them, they would carry them in with them?

Mr. Burr:
The Judge ought not to lead the witness.

Mr. Smith:
Mr. Burr has led more witnesses than I have.

The Court:
Go ahead.

Q. Repeat what you said.

A. I said if a crew brought down something they didn't need to start work with in the heading, and didn't need to carry it with them to the heading, they would leave it there with me at the material tunnel station to ship out to them, but if they needed it they would probably carry it on with them.

Q. Have you seen the actual producing crews, that is, the men that actually get out the ore—

A. That is the head miners and drillers and muckers?

Q. Have you seen them carrying material from the tally house down in the mine and from the man loading station to where they work?

A. I have quite frequently.

Q. Was that a frequent occurrence?

A. It was up to May 1st.

Q. They have abandoned that practice since May 1st?

A. They have an underground supply house.

Q. Before May 1st—

A. They kept hangers and wedges and C hooks in a supply house there at the bath house.

Q. How far was the bath house from the tally house?

A. About 2300 feet.

Q. And they would bring that material over to the tally house and put up their checks, and catch the man trip with that material?

A. Yes, sir.

Mr. Smith:

I believe that is all.

Cross Examination.

(By Mr. Burr):

Q. Mr. Trammell, you have been working for the Tennessee Company about how many years off and on?

A. I worked a year, and then I railroaded a while and then went back. Since I railroaded, Mr. Burr, and went back, since then, it has been 18 or 19 years.

Q. Has all your mining experience been with the Tennessee Company?

A. Every bit of it.

Q. You have worked as hoisting engineer and through—

A. Most all occupations underground.

Q. And how long have you been the underground dispatcher?

A. Since May of 1936.

Q. Now, Fred, I wish you would tell me what the duties of the underground dispatcher are, so the Court can understand what you have down there.

A. Well, it is a kind of central bureau of information, I think, the way they handle it, but mostly it is up to the dispatcher to direct the motors after the trips of ore, and keep the time of the trams and trips, and report it out to the office on the distribution sheets.

Q. It is almost the same job as a railroad dispatcher has outside?

A. Yes, sir. I take the calls of the head miners, take the number of cars he runs, see that he has empty cars, and keep up with the motormen and trip riders.

Q. Have you a crew under you?

A. Just the motormen and trip riders.

Q. Motorman and trip rider, the three of you?

A. Yes, sir.

Q. When you got to the mine after you changed your clothes at the bath house—I believe way back yonder when you started to working they made you pay for that bath house?

A. I think there was a fee of fifty cents a month.

Q. How many years have they been giving it to you free?

A. I couldn't say, Mr. Burr. I think through '28,—'26 or '28 when it was abandoned.

Q. And I guess, like everybody else, you got your carbide?

A. Yes, sir.

Q. You got that every day?

A. Sometimes a can will last a day, and sometimes get three days out of it if you didn't use it much.

Q. Then you deposited your check?

A. Deposited the brass check at the tally house.

Q. Both of those things you have been doing ever since you have been there?

A. Yes, sir.

Q. In the same way?

A. Yes, sir.

Q. And as far as you know, everybody else has done it in the same way?

A. If they go underground they have got to check in by brass check.

Q. By checking in you mean depositing the brass check?

A. Yes, sir.

Q. I believe you said you caught whatever skip down you could conveniently catch?

A. Most of the head miners and men in charge of crews caught the first trip down.

Q. If you didn't get there in time for the first trip, that threw you to catch a later trip?

A. Sometimes, but I usually took the first trip down.

Q. Does your crew go down with you, or take a later skip?

A. As a rule the trip riders and motor runners knew we have got to get this drill steel out, and they catch the first or second skip.

Q. When you get down there where do you go, you and your two men?

A. The locomotive pit is about 200 feet from this timber tunnel and the four motor runners go to the locomotive pit and put their trolley poles up. These motors are run in the motor pit for inspection.

Q. How far is that from where you get off the skip?

A. About 200 feet; it switches out to the material yard.

Q. How is that walking, bad walking or good walking?

A. Good walking.

Q. Have you been riding down on that same kind of a skip all these years?

A. Yes, sir.

Q. Mr Trammell, have you ever had any injuries happen to you while you were riding down on that skip?

A. Well, I got a bump on my head one time, but fortunately I was not injured.

Q. How did you get your head bumped?

A. Just forgot to stoop for a low place on the slope.

Q. But you were not injured fortunately?

A. No, sir.

Q. About this drill steel, is that the heavy drill steel, the steel for the tripod drills?

A. Yes, sir. It consists of four pieces in a set, four, six, eight and ten feet long.

Q. It is your job to get it delivered to the different headings?

A. The motor runners and trip riders carry it out and place the new steel in every heading and pick up the dull steel.

Q. You say the men have sometimes brought down themselves in that basket on the skip hangers and wedges. Did you mention anything else?

A. I didn't mention it, but the service men have brought hitch cutters and the production men have brought steel for jackhammers.

Q. With the exception of the wedges, hangers and C-hooks, the rest of that stuff was at the blacksmith shop?

A. Yes, sir.

Q. And for a while they kept a supply of the wedges, hangers and C-hooks at the bath house?

A. At the bath house.

Q. In other words, the whole crew did not come up every morning with a lot of hangers and wedges and C-hooks?

A. One man would get the requisition and he would get the stuff and stand there until he saw a member of his crew, and they would carry them and put them in the basket.

Q. That basket was large enough to carry both lots?

A. Yes, sir,

Q. How big was it?

A. About four foot long and about a foot wide.

Q. When they got to the bottom with the hangers and wedges and stuff of that kind, I believe you say sometimes in preference to having your crew bring them up they would take them up themselves?

A. Yes, sir. They might have six hangers and fifty wedges and they would take one hanger and two or three wedges and leave the rest of them for me to send in.

Q. You don't mean fifty wedges to go to one heading?

A. They order them sometimes three hangers and twenty-five wedges; three or four hangers and forty or fifty wedges.

Q. I guess the number they get depend on the head-miner and the crew?

A. Sometimes, if a hanger is pulled, they never find the wedge. It is destroyed or lost in the ore. It just depends on how well they are cared for.

Q. Was there a good deal of energy spent on the part of the mine foreman in seeing they had hangers and wedges and so forth?

Mr. Smith:

We object to that.

The Court:

Overruled.

Q. How about that?

A. He tried to keep them supplied, gave them a requisition whenever they wanted it, but he would try to keep down the cost to see they didn't use too many.

Q. I just want to ask you one or two questions, and then I am through. Your pay day began at 6:45; is that right?

A. As a rule.

Q. As a rule? You were paid by the hour?

A. Yes, sir, eight hour basis.

Q. Ran from 6:45 to 3:15 in the afternoon, with fifteen minutes for lunch?

A. Yes, sir.

Q. That is the way it ran during these years?

A. Yes, sir.

Q. That didn't include the time you spent riding down and back from your working place?

A. No, sir. It was the policy face to face.

Q. Has that always been the policy out there, face to face?

A. As far as I know.

Q. For everybody?

A. For everybody.

Q. Sometimes, if you got down there before 6:45, you started looking after locomotives?

A. Most always we started doing what we knew had to be done.

Q. Most days you got off at three o'clock?

A. Three o'clock ordinarily, and sometimes a motor wouldn't be in until five minutes after three.

Q. Then your work was over?

A. Yes, sir.

Q. And you went on out?

A. I had to carry my sheets by, and the mine foreman usually took time to check them and see how the drilling had been carried out.

Q. That was the sheet showing—

A. The powder and drilling and use of supplies.

Q. Of course, your crew didn't have to do that?

A. No, sir. When they put their locomotives in the pit, they went on.

Mr. Burr:

That is all.

Re-Direct Examination.

(By Mr. Smith):

Q. Fred, the condition you have described there was from October 24, 1938, until May 1, 1941, this year, when they put in the collar to collar plan?

A. Yes, sir.

Q. Mr. Burr said your work day was over at 3:00 o'clock. What time did you actually get out of the mine?

A. As far as pulling ore was concerned, we usually quit pulling ore around three o'clock, but we went to the

man loading station and waited until the rappers and skip tenders—

Q. What time—

The Court:

Let him answer.

A. The skip tenders would run up to 3:15 and start pulling man trips, and if we left on the first man trip we would get out about 4:20 or 21. It took seven or eight minutes to run a man trip. If we didn't catch the first one it would throw us that much later on up to 4.00 o'clock.

Mr. Smith:

That is all.

(By Mr. Harris):

Q. Was the general condition as to the roof and slope and haulage ways, and general conditions as to the traffic substantially the same from October 24 1938, up to the present time?

A. Practically, Mr. Harris, yes, sir.

Mr. Harris:

That is all.

Re-Cross Examination.

(By Mr. Burr):

Q. They were practically the same for years back?

A. The way that was done, the haulage ways would get dirty, and on a week end or Saturday night we would put a crew there to what we called scrap the haulage ways.

Q. That was always done?

A. Yes, sir.

Q. But it has been substantially the same all the time, the condition of the haulage ways and so on?

A. Practically the same.

Q. Fred, I want to ask you a frank question. You were in and over that place?

A. In and about the mine?

Q. Yes, sir.

A. I would go about them.

Q. Were any of those places attended with any handicap in walking?

Mr. Harris:
We object.

Mr. Burr:
This is cross examination.

The Court:
Sustained.

Mr. Burr:
They have asked about the condition.

The Court:
I haven't let him give any conclusions.

Mr. Burr:
We except.

The Court:
You can go ahead and ask it. He can describe the condition. All right. Let him tell the condition.

Q. Was it hard to walk or difficult to walk?

A. I will answer my judgment. Some of the places where they had bad falls and they pulled the slate out and stored it on the side of the track, some were in worse

condition than others. Some were fair and some were bad.

Q. Did that depend on—

A. Depended on the kind of top they had in the particular heading. Some places were bad and some were not so bad.

Q. Would that be cleaned up?

A. When they got a chance in there, have a shift off, an off night, they would send a crew in there and clean this stuff up.

Q. That was not a part of your work?

A. No, sir.

Mr. Burr:
That is all.

Mr. Smith:
That is all.

(Witness excused.)

Mr. Smith:
Call Mr. Palmer.

3067 FRANK PALMER, being called as a witness and being duly sworn, testified as follows:

Direct Examination.

The Court:
Is your name Palmer?

The Witness:
Yes, sir.

The Court:

What is your given name?

The Witness:

Frank.

(By Mr. Smith):

Q. Mr. Palmer, how old are you?

A. Thirty-six.

Q. Thirty-six?

A. Yes, sir.

Q. How long have you been in the ore mining business?

A. Oh, since January, 1937.

Q. Who have you worked for since that time?

A. T. C. I.

Q. What mine?

A. Number 6, Muscoda.

Q. Number 6, Muscoda?

A. Yes, sir.

Q. Mr. Palmer, what duties have you performed there with reference to the ore mining in Number 6 since you have been there?

A. Except for two days, I have been a motor inspector or electrician.

Q. Motor inspector or electrician?

A. And helper. That is a motor inspector's helper.

Q. What position do you hold now?

A. Motor inspector.

Q. How long have you been motor inspector?

A. Oh, around—September, I think, in 1937,—September or October.

Q. September in 1937 continuously up until May 1st of this year?

A. Yes, sir, continuously. Oh, during slack times I might have been demoted to helper for a few weeks.

Q. Now, what are your duties as motor inspector down in the mines?

A. Well, my regular duties are to take care of heading inspection work, that is, moving up electrical equipment when the face of the heading is advanced, and when that work is caught up to help the other electricians on service lines and breakdowns.

Q. Do you have a crew of your own?

A. Only a helper.

Q. What time do you report there for work, Mr. Palmer?

A. Are you referring to prior to May 1st?

Q. Prior to May 1st; from October 24, 1938, up to May 1st of this year?

A. I usually got to the tally house around 6:25.

Q. Did you go to the bath house first?

A. Yes, sir.

Q. And then what time did you say you got to the tally house?

A. I went to the bath house about six and get to the tally house about 6:20 or 25.

Q. Did you turn in your brass check?

A. Turned in my brass check.

Q. And then get your carbide?

A. There was a time when I first went there when the carbide was kept at the slope. It was later taken down to the bath house.

Q. Who did you work under?

A. There was an electrician in charge of our crew.

Q. You had an electrician in charge of your crew?

A. Yes, sir.

Q. What did you call him?

A. He had the same title I did, motor inspector, for a good long while.

Q. Did you report to him at the tally house?

A. No, sir. At the tally house I turned in my check to the timetaker, but I would see him at the bath house or the tally house.

Q. When you turned in your check, what skip did you take?

A. The first one I could get on.

Q. Then where did you go?

A. Underground.

Q. To the man unloading station?

A. Yes, sir.

Q. Where did you go from there?

A. To the motor pit, which was down the hill, I guess, a hundred and fifty or two hundred feet.

Q. From the man unloading station?

A. Yes, sir.

Q. What did you do then?

A. If there were any locomotives come in and I didn't have any work elsewhere, I would help them check them over to see if they were all right.

Q. Where did you start your work?

A. If I had any work to do out in the headings, and any material to take, I would usually wait until I got an opportunity to go out there on a motor.

Q. Did you ever take any material down with you?

A. How is that?

Q. Did you ever take any material down with you?

A. Yes, sir.

Q. Quite often or infrequently?

A. Well, in my case I didn't go often, but usually the helper went.

Q. The helper?

A. But the helper went as often as two times, sometimes three times a week,—usually twice each week.

Q. Go where, Mr. Palmer?

A. They would go from the bath house down to the electric shop and then to the supply house. Some of the material would come from both places.

Q. And bring the material to the mouth of the mine?

A. Yes, sir. The procedure we usually followed was that our supervisor would tell us in the bath house what materials that we had to get and order someone to get them. The helper would go by the electric shop and get it out handy to the truck, and walk down to the supply house with the requisition. The supply house was opened at 6:30. We would get our materials and come past the electric shop and pick up those there.

Q. When did you get to the top?

A. In that case the last man trip had run. If it was not too late I would get a skip right away.

Q. How long would it take you to assemble all that stuff you took there and get it down in the mine?

A. It depended on the amount. I suppose an average of ten minutes would do it.

Q. Ten minutes?

A. Sometimes it would be a good bit more.

Q. After you got it to the mine, did you carry it down in the man skip?

A. Yes, sir, because the fact I was riding it would make it a man skip. It is the same skip all the time.

Q. You would carry it on the ore or man skip?

A. It is the same vehicle, the same drag.

Q. Where would you deliver that material underground?

A. Take it in to the motor pit where we are going to use it.

Q. What?

A. Take it in to the motor pit where we are going to use it.

Q. Take it in to the motor pit where you were going to use it?

A. Or keep it on storage.

Q. How far is the motor pit from the man unloading station?

A. Oh, I should say a hundred and fifty or two hundred feet.

Q. Would you take it directly to the motor pit?

A. Yes, sir.

Q. How did you take it, on a car?

A. In our arms.

Q. In your arms?

A. Sometimes made two or three trips.

Q. What time did your pay start?

A. 6:45.

Q. 6:45?

A. Yes, sir.

Q. You reported at 6 o'clock and did the things you have described between then and 6:45?

A. I have done that.

Q. What time would you get out of the mine?

A. Well, the first man trip would run about three fifteen about, and I would usually get on the first or second. I averaged about the second one, I guess.

Q. What time did you get out of the mine?

A. I would say about 3:25.

The Court:

What is the last question?

The Witness:

I said I got out about 3:25.

The Court:

Out of the mine?

The Witness:

Yes, sir.

The Court:

About what time?

The Witness:
About 3:25.

Q. That is if you caught the first trip?
A. First to the second.
Q. First to the second?
A. I usually averaged about the second.
Q. That would put you out about 3:25?
A. About 3:25, average.
Q. What time did they turn on the juice down in the mine?
A. The generators are set to be turned on by clock. It is automatic. The clock is set for 6:15.
Q. So the juice is set to be turned on at 6:15?
A. 6:15 unless the clock runs slow.

Mr. Smith:
I believe that is all.

Cross Examination.

(By Mr. Burr):
Q. Mr. Palmer, how long have you been working for the Tennessee Company?
A. Since January, 1937.
Q. Had you ever done any mining work previous to that?
A. Oh, I did work for a while,—less than a month for Woodward Iron Company in 1926.
Q. Your mining experience has been exclusively, you might say, with the Tennessee Company?
A. Yes, sir.
Q. And during that time your work has been motor inspector?
A. Except the first two days I worked. I worked with the brattice crew two days.
Q. Which is the higher, motor inspector or helper?

A. Well, a motor inspector is higher than a helper.

Q. Did you rank the same as the foreman, both when you worked as a helper and a motor inspector?

A. You mean as—you mean the same electrician in charge of our crew?

Q. No, the same rank.

A. Yes.

Q. In the electrical department?

A. Yes, sir.

Q. You rank as an electrician in the electrical department, and you draw your day rate on the particular job you have in that department?

A. Yes, sir.

Q. You are now and for some little time have been a motor inspector?

A. I have been a motor inspector most of the time.

Q. It has been your business to inspect these motors to see if they are in shape?

A. That is part of my duty.

Q. What else do you have to do?

A. Move up the electrical equipment and lines in the working places as they are advanced, trolley lines, telephone lines, light wires.

Q. Do you have anything at all to do with the production crews?

A. Not a thing except repair the motors.

Q. Repair the motors?

A. Yes, sir.

Q. All right, sir. After you get your change of clothes at the bath house, as a usual thing, and I will come back and ask you about the details later,—I am just leaving that out for the present,—as a usual thing you go to the tally house and deposit your check,—get your carbide and deposit your check. Is that right?

A. That is right.

Q. Then you go down in the mine on this skip, the same kind of skip you have been riding all the time?

A. Yes, sir.

Q. And I believe you say you generally caught the first skip?

A. You mean in going down?

Q. The first skip, I believe you said?

A. No, I am usually pretty late in going down. I don't know how many trips had run before I went down, but I usually left the top about 6:20 to 6:25.

Q. You got to the tally house, you said, after changing clothes, around about 6:20 or 6:25?

A. Yes, sir.

Q. So you are catching one of the late drags?

A. Yes, sir.

Q. When you get down—get to the bottom, how far do you have to go to your working place?

A. You mean the direction and turns I make?

Q. Yes, sir; you go about how far?

A. I guess about a hundred and fifty or 200 feet to the motor pit. That is where I get my tools.

Q. Is that where your tool house is?

A. A box where I keep my own personal tools.

Q. Do you have a key to that box?

A. Yes, sir.

Q. Do you, as a motor inspector, have a box?

A. Yes, sir.

Q. Does each motor inspector have a box?

A. Yes, sir, he and his helper.

Q. Then the first thing you do is go and get your tools?

A. Yes, sir.

Q. Then where do you go from there?

A. It all depends on what kind of work is being done; that is, whether there are any headings to be moved up or bonding the track. Sometimes we can prepare a good bit of that in advance. That keeps me pretty well busy working between times.

Q. What time would you usually say you get to your tool box, just a rough estimate?

A. Oh, I should say around 6:30, maybe a little before or a little after,—average around 6:30, I guess.

Q. To go back, I want to ask you something about the tools you get at the supply house. You say you will usually meet the electrician probably at the bath house?

A. Yes, sir.

Q. And if he needs any tools, he will give you a requisition for them, or order?

A. No, sir,—

Q. Just tell you what he will need?

A. Mr. Powell usually writes a requisition if you need anything from the supply house. Electrical equipment comes, as a rule, to the electric shop and that is where we pick it up. There are things we get from the supply house that are not tools, but materials and supplies.

Q. Do you know what you need, or will someone tell you?

A. He usually tells me what he has ordered.

Q. What he has ordered?

A. What he has coming in. He orders it and sees it is down there.

Q. It is special material?

A. Usually.

Q. Do you go and get it yourself, or send someone?

A. My superior does the sending. He usually sends helpers.

Q. Sometimes he sends you?

A. Yes, sir.

Q. If he sends you you will go down to the supply house and get the materials?

A. If there are any materials from the supply house I get it.

Q. It opens at 6:30 in the morning, I believe you say?

A. Yes, sir.

Q. Do you take it up in a truck to the entrance of the mine?

A. As a rule.

Q. How do you carry it down; on a late drag, you say?

A. Usually.

Q. They run an extra drag for you?

A. I am not the only one. There are others.

Q. For those that are late they run an extra drag?

Q. And you take it down and take it where it has to go?

A. That is right.

Q. You generally get through with your work in the afternoon about what time? When I say work, I am not talking about coming out of the mine; I mean your actual work as a motor inspector.

A. By that I am assuming you mean with my work in the motor pit?

Q. Yes; when you lock your tool box.

A. Yes. I guess that would be around a quarter of three to three fifteen sometimes.

Q. Any where from a quarter of three until three fifteen?

A. Yes, sir.

Q. Then, after you lock your tools up, do you go down to the unloading station and catch the drag out?

A. Yes, sir. However, I usually go in there about three o'clock.

Q. You wait for the first drag that runs about 3:15?

A. The first one I can get.

Q. There are so many ahead of you at 3 o'clock you can't always get the first one?

A. Can't get the first one.

Q. By three o'clock the waiting place was pretty well filled, was it?

A. It was as a rule.

Q. How many will that place hold they have seats for there? Have you got some idea?

A. I would have to guess. There are two benches—

Q. To the best of your judgment.

A. One would hold, I guess, about forty men. The other might hold about fifty or fifty-five.

Q. I see. I believe you said you left your tool box about three. I am not sure I got that time right.

A. About three.

Q. About three, and you would walk down there and get there about three what?

A. Will you repeat that, please?

Q. How long would it take you to go from your tool box down to the bull pen, some of them call it?

A. We call it the hoodlum.

Q. The hoodlum?

A. About a minute.

Q. And when you get there, you will find that many ahead of you?

A. Sometimes I would find ten or twelve, sometimes one or two, sometimes forty, sometimes I would find a hundred.

Q. And you would catch the first drag if you could, and if you couldn't you would catch the first one you could catch?

A. That is right.

Q. Now, your pay runs from—during all this time has run from 6:45 in the morning until 3:15, with half an hour out for lunch?

A. That is right.

Q. And that has been the practice there ever since you have been there?

A. Yes, sir.

Q. I believe that is the only place you have been to amount to anything,—

A. Yes, sir.

Q. So I need not ask you about that.

This tool box you have, you and the others, where you put your individual, personal tools, is that what you might call your headquarters? Is that where you go?

A. Yes, sir. That is where we return. That is at the motor pit.

Q. That is at the motor pit, and that is where your time starts, at the motor pit?

A. Yes, sir.

Q. And you come back to the same place in the afternoon and get there about three o'clock?

A. Yes, sir.

Q. You say you were very seldom sent, but usually the helper was sent for these materials—

A. That is right.

Q. —that they got out of the supply house?

A. Yes, sir.

Q. And how frequently did you say that happened that anybody was sent out for them?

A. Two or three times a week.

Mr. Burr:

That is all.

Re-Direct Examination.

(By Mr. Smith):

Q. Let me ask you this: You have contacted your superior before you got to the tally house?

A. Yes, sir. I see him in the bath house every day in the world. We change side by side.

Q. You discussed the day's work?

Mr. Burr:

Don't lead him.

A. Yes, sir.

Mr. Burr:
As much as I like you, I don't want you to testify.

Mr. Smith:
That is all.

(By Mr. Harris):
Q. You stated about a change of classification,—you didn't have electricians; you had motor inspectors. When was your change of classification?
A. It took effect, I think, June 1st.
Q. June 1st this year?
A. I think so.
Q. On how many different types of work did they change the classification out there?
A. There were a good many. I don't know how many.

Mr. Harris:
A great many. That is all.

Mr. Burr:
That is all.

(Witness excused.)

Mr. Smith:
John White.

3082 JOHN WHITE, being called as a witness, and being duly sworn, testified as follows:

Direct Examination.

(By Mr. Smith):
Q. Your name is Mr. John White?
A. Yes, sir.

Q. How old are you, Mr. White?
A. Forty-seven.
Q. How long have you been in the ore mining business?
A. Since March, 1923.
Q. Since March, 1923?
A. Yes, sir.
Q. Have you spent all that time with the T. C. I.?
A. Yes, sir.
Q. At what mine?
A. Ishkooda Number 13.
Q. Ishkooda Number 13?
A. Yes, sir.
Q. All your mining experience has been in that one mine?
A. That division.
Q. That division?
A. I have worked some at Number 11.
Q. I see. What position do you hold now?
A. Head miner.
Q. Head miner? And how long have you been head miner?
A. Well, I have been head miner before they changed the name. They used to call it section foreman,—about fourteen years.
Q. When did they make the change?
A. About 1936, I believe.
Q. About 1936?
A. Yes, sir.
Q. You have been head miner all the time since October 24, 1936, up to May 1st this year?
A. Yes, sir.
Q. Head miner all the time since October 24, 1938?
A. Yes, sir.
Q. At Ishkooda Mines?
A. Yes, sir.
Q. Mr. White, what time do you report to the mine in the morning?

A. At six o'clock.

Q. You go to the bath house first, I believe?

A. Yes, sir.

Q. And from there to the tally house?

A. Yes, sir.

Q. And when you say six o'clock, you mean you hang up your check?

A. Hang up my check at six o'clock.

Q. Who do you report to when you get to the tally house?

A. I hang up my check and get outside the tally house and check in six men. I work six men.

Q. You check them in yourself?

A. Yes, sir.

Q. You are the head of that crew?

A. Yes, sir.

Q. What do you do after you check in your men?

A. After I check in my last man I catch the first skip I can going underground.

Q. You catch the first skip down?

A. Yes, sir.

Q. Do you come in contact with the mine foreman or assistant mine foreman—

A. Yes, sir.

Q. Before you get on the skip?

A. Yes, sir.

Q. Does he give you any orders there?

A. Sometimes he doesn't and sometimes he does.

Q. Suppose there is a vacancy in your crew—

A. I confer with the mine foreman and he gives me a man.

Q. After you complete your crew by conferring with the mine foreman, you get on the skip?

A. Yes, sir.

Q. Do you carry any material down on that skip?

A. No, sir.

Q. You do not?
A. No, sir.
Q. Where do you get your material?
A. At the underground supply house.
Q. At the supply house?
A. Yes, sir.
Q. How far is that from the underground loading station in the mine?
A. About 200 feet.
Q. About 200 feet?
A. Yes, sir.
Q. What material do you and your crew get there?
A. We get hangers and wedges and C-hooks and jackhammer steel.
Q. Where do you carry those?
A. Sometimes, if we need them right at once, we carry them into the heading, and if we don't need them we leave them at the nuck for the motor to bring up on the first trip.
Q. How far do you have to carry them?
A. Somewhere near 300 feet, I imagine.
Q. What time do you start actual operations down there; that is, commence producing ore?
A. 6:45.
Q. What do you do when you get to your place at 6:45?
A. I go through all the working place and see everything is safe the first thing.
Q. You get there before 6:45 at your working place?
A. No, sir. I get in there at 6:45, and go through all the working place, and see it is safe.
Q. Go through all the working place and see it is safe?
A. Yes, sir, in my heading.
Q. Who goes with you?
A. The drill men.
Q. Do you use any powder and oil down there?

A. Use carbide.

Q. I mean oil in the drill?

A. Yes, sir, use oil in the drill.

Q. And explosives, dynamite?

A. Yes, sir.

Q. Where do you get that?

A. At the underground magazine.

Q. When do you get that?

A. We get that along in the evening before shooting time; send the drill helper after it.

Q. Send the drill helper after it?

A. Yes, sir.

Q. Before shooting time?

A. Yes, sir.

Q. Now, what time do you shoot down there?

A. 3:15.

Q. 3:15? What time do you start out of the mine, get out of the mine?

A. All the way from 3:30 until 25 minutes to 4:00.

Q. 3:30 to 4:00?

A. Twenty-five minutes to 4:00 depending on what skip I catch coming out.

Q. You are paid on an eight hour shift commencing at 6:45 and ending at the end of eight hours?

A. Yes, sir.

Q. You haven't been paid for any travel time, I believe, since you have been there?

A. No, sir.

Mr. Smith:

Your Honor, I am going to make this short. There is a lot of it duplication, and I am not going over it.

The Court:

All right.

Mr. Smith:
I think I am through.

Cross Examination.

(By Mr. Burr):
Q. Mr. White, has all your mining experience been at Ishkooda, did I understand you to say?
A. All the ore mining experience.
Q. All the ore mining experience?
A. Yes, sir.
Q. That covered a period of what time?
A. Since March, '23.
Q. Have you had any experience in other mines than that, other than ore mines?

Mr. Harris:
We object to experience in other mines than ore mines.

The Court:
He can ask if he had experience.

Q. Have you?
A. I have had experience in one coal mine.
Q. In this same district?
A. The same Birmingham district.

Mr. Burr:
I want the same exception—I assume you will object to the coal mines, Mr. Harris?

Mr. Harris:
Yes, indeed.

The Court:
And I will sustain the objection.

Mr. Burr:

And the same question I propounded to the other witnesses along that line, Your Honor.

The Court:

All right.

Mr. Burr:

And the same exception.

Q. Now, Mr. White, before you were a head miner you were a section foreman?

A. Yes, sir.

Q. That was the same job under a different name?

A. Yes, sir, under a different name.

Q. The head miner acquired that name after they put the incentive plan in, and he commenced sharing in the production if he reached a certain point?

A. Yes, sir.

Q. And I will ask you if it hasn't been true, since you have been connected with the mines, wherever you have been connected with the mines, the men have always had their time computed and paid on a face to face basis?

A. Yes, sir.

Q. They never have been paid, to your knowledge, on any portion of the traveling time in going to and from their places of work?

A. No, sir.

Q. Now, the same conditions in reference to depositing —getting your bath—I mean changing your clothes at the bath house, and getting your carbide, and putting your check in at the window and going down and going to your working place has substantially been the same over all these years that you have worked there?

A. Yes, sir.

Q. The checking in you do, both at the top and coming out, you deposit your badge, your check number?

A. How is that?

Q. You deposit your check number as you go in?

A. Yes, sir.

Q. Then you said if there was a vacancy in your crew you would ask the mine foreman sometime for a particular mine; is that the may I understood you?

A. Yes, sir.

Q. You would know a good man and would ask for him?

A. Yes, sir.

Q. And he would, if he could get him, send him down? If he was available he would give him to you?

A. Yes, sir.

Q. Would that man join you right then or would he be sent later?

A. He might have already gone down and they would have to send him word.

Q. Sometimes he might be at the top and you would get him then?

A. Yes, sir.

Q. You would ascertain at the top whether you had a full crew?

A. Yes, sir.

Q. Would you take the checks of the men and deposit them yourself?

A. I took them direct from the men.

Q. You wanted to know whether your crew was there?

A. Yes, sir.

Q. You took them there?

A. Yes, sir.

Q. And the other head miners did the same thing, you say?

A. Most of them did it the same way.

Q. Some of them did it differently?

A. Yes, sir.

Q. Did you go down with all your crew?

A. No, sir.

Q. Did you go afterwards or before that time?

A. The last one I would check in, we would catch about the same trip.

Q. When they got to the bottom, would they go on to the working place, or wait for you?

A. They would go up to a distance of about 200 feet where we keep our lunches and wait for me.

Q. And then you went up together?

A. I would go in front.

Q. And you wouldn't let them go in until you inspected it to see if it was safe?

A. Yes, sir.

Q. And you started working about 6:45?

A. Yes, sir.

Q. And work went on in the usual way throughout the day until the shooting time?

A. Yes, sir.

Q. And you shot at what time?

A. 3:15.

Q. 3:10 or 3:15?

A. 3:15.

Q. Did you always wait till 3:15 to shoot or sometimes shoot before?

A. Might be a minute or two.

Q. Did your men stay until you shot?

A. Those that were necessary did.

Q. What was necessary?

A. Drill man and helper.

Q. And the others left?

A. Yes, sir.

Q. What time did they leave?

A. Just before we shot.

Q. And which ones left?

A. The motor runner and two section helpers.

Q. That left three others?

A. Yes, sir.

Q. They could go ahead down to the hoodlum?

A. Yes, sir.

Q. Now, then, I believe you told Mr. Smith that you didn't take any tools down with you on the skip at all?

A. No, sir.

Q. Have you been riding down on the same skip all these years?

A. Yes, sir.

Q. The same kind of skip, I mean?

A. Yes, sir.

Q. And your men have been riding down in the same skip?

A. Yes, sir.

Q. You are in control of your men, of course, while they are at the working place?

A. Yes, sir.

Q. You are the head?

A. Yes, sir.

Q. You are the boss?

A. Yes, sir.

Q. While you were up in the regular working place—you have a regular time to send for powder?

A. Yes, sir.

Q. That is always during the shift?

A. Yes, sir.

Q. About what time do you send for powder?

A. About 1:30 at that time.

Q. Do you send one man or two men for the powder?

A. It is according to how much I am going to use that particular day.

Q. You are the judge of that?

A. Yes, sir.

Q. How do they bring the powder down there?

A. They have a powder sack.

Q. Is it made for that purpose?

A. Yes, sir.

Q. Hung over their shoulders?

A. Hung over their shoulders.

Q. It is not a crocus sack?

A. No, sir.

Q. I don't believe you pay for the powder, but in the earnings you get a credit on the amount of powder you use?

A. Yes, sir.

Q. Something of that sort?

A. Yes, sir.

Q. That is a part of your incentive earnings?

A. Yes, sir.

Q. Of course, you have to send at a regular time for powder, but if you run out of oil or drill steel gets dull or the drill should break, anything of that sort, have you got the authority to send one of your men down to look after anything like that for you?

A. Yes, sir.

Q. And you do that when it is necessary?

A. Yes, sir.

Q. Now, you mentioned as the only kind of tools that the men sometimes pick up at the underground supply house, I believe you call it—

A. Yes, sir.

Q. That is an underground tool house, is it?

A. Yes, sir.

Q. That is located about how far—

A. About 200 feet, as far as I know.

Q. —from the underground loading station?

A. Yes, sir.

Q. In going to your working place, you and your men, do you walk by that place?

A. No, sir; ride by it.

Q. Do you ride up to your working place?

A. No, sir.

Q. When do you ride by it?

A. Coming down on the skip.

Q. The underground loading station is further down?

A. Yes, sir.

Q. So, when you go up there you go up to that place from where you get off the skip?

A. Yes, sir.

Q. Now, you say in accordance with your preference, if you pick up any wedges or hammers,—I don't mean hammers,—hangers,—is that what you said?

A. Yes, sir.

Q. Or C-hooks?

A. Yes, sir.

Q. In accordance with your preference you carry it up or have it sent up by the motor?

A. If we need it right out at the start of the shift we will carry it; otherwise, we will leave it for the motor to bring it up.

Q. And they bring it right to the heading?

A. Yes, sir.

Q. And they will bring it any time you want them to bring it, won't they, Mr. White?

A. Yes, sir.

Q. That is their duty, and whenever you want them to bring it,

A. Yes, sir.

Mr. Burr:

That is all.

Re-Direct Examination.

(By Mr. Harris):

Q. Are the general conditions as to the height of the roof in the main slope, main haulage ways, the man ways, the walking conditions, the trolley wires, the same up to

the present time that they have been since around October 24, 1938?

A. Well, all the places I have been in, sir.

Mr. Harris:

That is all.

Re-Cross Examination.

(By Mr. Burr):

Q. Mr. White, is it your duty as head miner, under the rules, to report at once any injury you may have received or your men may receive?

A. Yes, sir.

Q. Since you have been working there do you recall you have had to report any of your own injuries that have occurred, either on the skip riding down or going to the stope? I am not interested in injuries in the stope?

A. No, sir.

Q. Have you ever reported any for any of your men?

A. No, sir.

The Court:

Mr. White, I want to ask you what time do you check out at night?

The Witness:

It ranges from 3:20 to 25 minutes to four.

The Court:

I can't hear you.

The Witness:

From 3:20 to 25 minutes to four. It is according to what skip I catch coming out. Sometimes I get out on the first trip and sometimes I catch a later one.

(By Mr. Burr):

Q. The extent of your checking out is just getting your badge?

A. Taking it off the board.

Q. And going to the bath house?

A. Yes, sir.

Mr. Burr:

That is all.

Mr. Smith:

That is all.

(Witness excused.)

The Court:

I believe we will adjourn.

Court will adjourn until 9:30 tomorrow morning.

(Whereupon, 4:35 P. M., July 29, 1941, an adjournment was had to 9:30 A. M., July 30, 1941.)

July 30, 1941, 9:30 A. M.

Court met pursuant to adjournment.

The Court:

Who will you have?

Mr. Smith:

James Knox.

3097 JAMES KNOX (c), being called as a witness, and being duly sworn, testified as follows:

Direct Examination.

(By Mr. Smith):

Q. Is your name James Knox?

A. Yes, sir.

Q. How old are you?

A. Forty-five.

Q. James, where were you raised at?

A. I was raised in Georgia.

Q. Raised in Georgia?

A. Yes, sir.

Q. How long have you been in the mining business?

A. About seventeen years.

Q. In the ore mining?

A. Yes, sir.

Q. Where have you been working most of the time?

A. No. 11, Ishkooda division.

Q. No. 11, Ishkooda division. How long have you been working there?

A. Right at seventeen years.

Q. Been in the ore mine seventeen years?

A. Yes, sir.

Q. What job have you got in the mine?

A. Drag operator.

Q. Drag operator?

A. Yes, sir.

Q. When you get to the mine in the morning where do you first go when you get there?

A. Go to the tally house, what we call the tally house.

Q. You go to the bath house?

A. Go to the bath house, yes, sir.

Q. What time do you get to the tally house?

A. Usually get there—well, my time is usually about a quarter to six.

Q. Usually about a quarter to six?
A. Yes, sir.
Q. What time did you hang up your check?
A. What are you speaking of? I think I can tell you. Prior to the change what time?
Q. From October 26, 1938, up until May 1, '41.
A. What time I hung up my check?
Q. Yes.
A. Usually check in at the time I got there.
Q. A quarter to six?
A. Yes, sir, about the time I got there.
Q. Then what did you do?
A. Wait for the drag, the man drag.
Q. Would you have anybody there that you worked under that you reported to?
A. That I worked under?
Q. Yes, who was your boss?
A. The mine foreman would be there.
Q. The mine foreman would be there?
A. And the head miner would be there.
Q. You worked directly under the head miner, did you?
A. Yes, sir.
Q. Would you report to him?
A. Not at the tally house.
Q. Where would you report to him?
A. Underground.
Q. You reported to him underground. Who did you report to at the tally house?
A. The mine foreman or the assistant mine foreman.
Q. The mine foreman or the assistant mine foreman; would they tell you where to go or what they wanted you to do?
A. No, sir, they would just hang my brass and I knew what to do.
Q. Just hang your brass?
A. Just hang my brass.

Q. Did you carry any material down with you?

A. Before I was drag operator I would carry hangers or anything like that, jackhammer steel.

Q. Carry hangers and jackhammer steel?

A. Yes, sir.

Q. What else?

A. That is about all that I would carry.

Q. What time would you catch the drag going down?

A. The man trip going down, you mean?

Q. Yes.

A. About six o'clock.

Q. Then you would go down to the man loading station, would you?

A. Yes, sir.

Q. Now, from the man loading station where would you go?

A. Go to the heading in which I worked.

Q. Go to the heading in which you worked?

A. Yes, sir.

Q. Would you carry anything from the man loading station to the heading?

A. Usually you get it at the tool house.

Q. How far is the tool house from the man loading station?

A. Well, it is just two headings down. I don't know the distance between them.

Mr. Burt:

What?

The Witness:

Two headings down from the man loading station.

Q. Two headings down?

A. Yes, sir.

Q. About how far is that, just approximately?

A. I guess—I don't exactly know the distance between the headings. If I knew that I could tell you how far it was.

Q. Just how far it was in your best judgment?

A. I would say about one hundred and sixty feet.

Q. About one hundred and sixty feet?

A. Something like that.

Q. And that is where you got your tools at?

A. Yes, sir.

Q. Now, would you and your men carry your tools from that place?

A. Well, now, some of the men carry different things, according to what they were to do.

Q. What would they carry ordinarily, just as a general thing?

A. Hangers, jackhammer steel, wedges.

Q. Wedges?

A. If you needed the jackhammer you would get it.

Q. You would carry that to what place?

A. The heading.

Q. Where you were digging ore?

A. Yes, sir.

Q. How far did you have to walk from that tool house to the place in which you worked, ordinarily?

A. To the place in which I work? Well, I would say it was around, I would say, two thousand feet, probably.

Q. Around two thousand feet?

A. Yes, sir, and maybe five hundred.

Q. Now, when you got to the heading what time were you supposed to go to work, go on up?

A. A quarter to seven.

Q. A quarter to seven?

A. Yes, sir.

Q. That is the actual place of work, where you pick up your tools and go to mining ore?

A. That is right.

Q. And you report there at six o'clock and start the actual work at 6:45?

A. That is correct.

Q. That is, the ore operation?

A. That is correct.

Q. What they call the face of the mine?

A. Yes, sir.

Q. Now, that mine there, are you going downhill or uphill?

A. What do you mean, in the entrance in which I work?

Q. Yes, going to your heading from the man loading station.

A. You go down. I would go down, I would say, probably right at a thousand feet down. Then I turn and go out that way.

Q. A thousand feet down?

A. I turn and go out east then. I go east practically level. I don't go down.

Q. Practically level?

A. Yes, sir.

Q. About how far?

A. The same distance.

Q. Then do you turn again?

A. When I get to the place, the entrance where I work, it is just a small place to turn then and go direct east.

Q. Is that uphill or downhill?

A. It is upgrade.

Q. Upgrade. Now, coming back, when you get through there you come back the same way?

A. Come back the same way.

Q. What time did you leave coming back?

A. About 3:10.

Q. What time did you get to the drag loading station?

A. Well, I couldn't say exactly about what time that I would get to the loading station, but I usually got there time enough to ride the last drag out.

Q. Usually got there in time to ride the last drag out?

A. The last man trip out.

Q. What time on an average would you get out to the tally station?

A. About fourteen minutes till four o'clock.

Q. About fourteen minutes till four?

A. Yes, sir.

Q. And you were paid for eight hours?

A. Yes, sir.

Q. How is the traveling there underfoot, is it rough or smooth?

A. Well, in some instances—on the left side we have just a small manway down, which is pretty fair. On the right side, it is slippery as you go through.

Q. Did you get wet there at times?

A. Nothing but your feet.

Q. That is what I am talking about, the walkway.

A. Yes, sir.

Q. The walkway gets wet?

A. Yes, sir.

Q. Is the trolley line, electric line, overhead there?

A. After you leave the manway going down the haulageways why the trolley line runs there.

Q. That man trip that goes down, how many people do they carry on it?

A. Well, right at thirty, I guess, or thirty-two, somewhere in there.

Q. Now, who has charge of filling up that man trip when it leaves the face and the portal of the mine, when they load up there, who oversees that?

A. When they are going down?

Q. Yes.

A. Well, the skip tender.

Q. The skip tender?

A. Yes, sir, he usually attends to it.

Q. Who usually oversees to the unloading when it gets down to the man loading station?

A. The skip tender.

Q. Now, coming back in the evening who oversees the loading?

A. The skip tender.

Q. Does he indicate how many men should get in there and when to pull out?

A. Well, he counts them out.

Q. Counts them out?

A. Yes, sir.

Q. They are in different places there?

A. Yes, sir, the white folks are on the right side over here and the colored folks are on the left side over there.

Q. What they call the bull pen?

A. Yes, sir.

Q. They go in the gate and get on the skip?

A. Yes, sir.

Q. And he gives the signal to go out?

A. Yes, sir.

Q. What about your oil, where did you get your oil?

A. Got it at the oil house.

Q. How far is the oil house from the place you work?

A. About the same distance to the tool house, on the left side.

Q. Right near the tool house?

A. Yes, sir, just across, the tool house on the right and the oil house on the left.

Q. How did you get your oil up to the place you are drilling?

A. Carry it.

Q. Who took the can back?

A. You keep the can until it gets empty and you carry it back.

Q. On the first trip you get a fresh can?

A. Well, if you need it between times you go get it.

Q. Now, when you get up there at the tally house do you go on down to the bath house?

A. Yes, sir.
Q. And change your clothes?
A. Yes, sir.
Q. Your working clothes?
A. Yes, sir.
Q. Where did you get your carbide lamps?
A. We have our lamp. We keep our own lamps.
Q. You keep your own lamp?
A. But we get our carbide at the tally house.
Q. You got your carbide at the tally house?
A. Yes, sir.
Q. Do you report to the man in charge of the skip there?
A. Well, we check in and get your carbide and then you go there ready for the skip about six o'clock and about six o'clock you catch that skip.
Q. About how many men did you say went down on the drag?
A. Usually, I would say anywhere from twenty-eight to thirty-two.
Q. Anywhere from twenty-eight to thirty-two?
A. Somewhere along there.

Mr. Smith:
Take the witness.

Cross Examination.

(By Mr. Burr):
Q. James, all of your mining experience has been at Ishkood, has it?
A. Well, mostly. I worked just a short time out at Bayview, before they ever got to any coal, just a short time.
Q. With the exception of the short time you worked—that was when they were developing Bayview for a coal mine?

A. Yes, sir.

Q. With that exception your mining experience has been—

A. In the ore mines.

Q. The Ishkooda ore mines?

A. Yes, sir, Ishkooda.

Q. And you have been there seventeen years.

A. Right at seventeen years.

Q. Practically spent your working life in those mines?

A. Well, practically.

Q. How old were you when you started to work in the mine?

A. Well, when I first started to work in the mines I was around sixteen years old.

Q. I guess you have worked at—

A. I have other times since then.

Q. I understand that. You have been working off and on since you were sixteen?

A. Yes, sir.

Q. And been working pretty continuously for the last seventeen years?

A. Working regular.

Q. Working regularly for the last seventeen years?

A. Yes, sir.

Q. Ever since you have started working in the mines you have had different jobs, I guess. You started, probably, as a mule driver?

A. No, sir, I never did drive a mule.

Q. When did you start in as?

A. I started in as a track helper.

Q. You are now what, a mechanical loader?

A. Operator.

Q. Operator?

A. Yes, sir.

Q. That is the fellow that operates the mechanical loader in the stope?

A. Yes, sir.

Q. And you have been at that how long?

A. Well, I have been doing that regularly ever since 1937.

Q. Well, ever since you have been working in those mines you have been paid on a face to face basis, haven't you? You have never been paid for traveling?

A. Been paid for traveling?

Q. Never have been paid for traveling?

A. No, sir.

Q. It has always been you work from the time you got to your working place until you left the working place, either eight hours or nine hours, whichever happened to be in vogue?

A. That is the way I work.

Q. And that is the way everybody else worked, so far as you know?

Mr. Smith:

We object. He can't know what everybody else knows.

Mr. Burr:

I said so far as he knows.

The Court:

Overruled. So far as you know.

Q. That is a fact, isn't it, James, so far as you know that is the way everybody has had their time computed and paid, on the face to face basis, not counting traveling time?

A. Well, I have only been getting paid for eight hours.

Q. Well, that is true of everybody else you know, isn't it?

A. Well, so far as I know anything about, I have only been getting paid for eight hours.

Mr. Smith:

You have been in ten hours.

The Witness:
I have been in there leaving at six o'clock and get back on top at—

Q. When you were—

Mr. Harris:
Let him answer.

Mr. Burr:
I thought I was cross examining the witness.

The Court:
He is cross examining him.

Q. When you were on a ten-hour basis you were paid for ten hours, weren't you, James.

A. Well, I suppose we was. In other words, we usually go down at six o'clock.

Mr. Harris:
Let him finish.

Q. Had you finished? I don't want to interrupt you.

A. We usually go down at six o'clock.

Q. I am not talking about when you went down, James. I am talking about when you came out. What you were paid for when you worked ten hours, you were underground more than ten hours, weren't you, when you got ten hours pay?

A. I don't know that we were in there much longer than when we went in at six o'clock.

Q. Well, the eight-hour day went in effect in 1933, didn't it, that is right, isn't it?

A. That is correct.

Q. And since then you have been paid for your eight hours at the face, not counting your traveling time?

A. Yes, sir.

Q. Now, as I understand, all of this time since you have been in the mine you have always gone to the bath house and changed your clothes, that is the first thing you do?

A. Yes, sir, that is right.

Q. Then you go over and get your carbide?

A. No, sir, we leave the bath house and go by the tally house.

Q. You leave the bath house and go by the tally house and get your carbide?

A. Yes, sir.

Q. You buy your carbide?

A. Yes, sir.

Q. And you get it as you need it?

A. Otherwise, the tally man, we call him, issues the carbide to you.

Q. He issues it to you and charges it to you?

A. That is right.

Q. And you get it when you need it, the carbide?

A. That is right.

Q. You don't need the carbide every day?

A. That is right.

Q. And all you do is that you turn in an empty can and get a full can?

A. That is right.

Q. And it has always been that way ever since you have been working?

A. We have been buying it.

Q. That is what I mean, you have, and other people, the other miners, you see them doing that same way that you are doing?

A. That is right.

Q. I believe you said to Judge Smith that you didn't report to your boss, the head miner, until you got underground, that is right, isn't it?

A. That is when I report to him. Some of them usually checks in to the head miner.

Q. I am talking about you now. You just tell what you did. By checking in you mean handing in the check?

A. Handing in the check.

Q. That is everything you did in the way of checking in, you handed in the check and took it up as you came out?

A. That is right.

Q. Then you went on down on the skip?

A. The first man trip.

Q. Did you always catch the first one?

A. That is right. I would ride the first man trip.

Q. Did anybody out there ever catch any skips except the first one?

A. Well, they had to. Everybody couldn't ride the same one.

Q. Thirty or thirty-two rode a skip?

A. Somewhere along there.

Q. And when you caught that man trip you rode on down to the unloading station?

A. That is right.

Q. And that is the way you have been doing ever since you have been working as a miner there, that is right, isn't it, the same way?

A. That is right.

Q. Then after you got to the bottom of the skip why you went up to your working place, walked up there?

A. Go out to your working place.

Q. The stope. And that is where you reported to your head miner, at the stope?

A. That is right.

Q. In other words, the head miner might not come down on the same skip you came down on at all; he might come on a different skip or some of your crew might come on a different skip; you didn't have to take any particular skip?

A. All of them usually—

Q. I am not talking about what all of them usually did. I am talking about you. When you rode on that skip that you usually took, the first skip, did the head miner ride down with you?

A. Not always.

Q. And some members of the crew did?

A. Some of them might and some might not.

Q. Some of them might and some might not. That is what I am getting at. When you got to the stope where you work the head miner would be there or he might not be there, that is right, isn't it?

A. He usually got there shortly afterwards.

Q. Well, when you got there he usually wasn't there; he came shortly afterwards. Was all of your crew there when you got there, or did they come in at different times, to 6:45?

A. They came in just as the drags came in.

Q. The juice was turned on when?

A. A quarter to seven.

Q. A quarter to seven is when the juice was turned on?

A. That is right.

Q. Now, you say that the oil magazine or drum, I believe you say they kept oil in a drum, didn't they?

A. A great big can.

Q. A can?

A. That is right.

Q. They call it a drum?

A. That is right.

Q. You said when they wanted oil that you have to get the oil; was that a part of your job?

A. If I used oil for my motor I got my own oil.

Q. If you wanted oil for your motor you got your own oil?

A. Yes, sir.

Q. Now, you said if you needed it between times, that is, between getting to the stope and leaving the stope you would go back and get it?

A. If I didn't go back and get it, if anybody was passing I would send and get it.

Q. You would send and get it?

A. Yes, sir.

Q. If you saw anybody passing you would send them to get it for you?

A. Anybody out of the crew.

Q. Anybody out of the crew, you would send one of your crew back?

A. Yes, sir.

Q. And they would go get it and bring it back up?

A. That is right.

Q. Of course, that can of lubricated whatever was needed to be lubricated under there, whatever you needed it for?

A. You used it for whatever you needed it for, any parts about your motor.

Q. Now, then, if you had to send back for your oil, why the man you sent, or if you went for it yourself, had to walk from your working place back to where the oil was and get the oil and then come back to your working place, didn't he?

A. Before we had these traveling motors to carry the cars in the heading I would usually send by the trammer, we call the trammer.

Q. Well, you would send by the trammer sometimes and your man didn't have to go at all?

A. That is one of our men right on.

Q. You would send by the trammer?

A. That is our man right on.

Q. Would he ride down there or walk down there?

A. He would ride the tram car down there.

Q. If you wanted supplies during your shift you would send the trammer and he would ride down and get what you needed and bring it back?

A. If there was a car out and you needed anything he would get it.

Q. On the car?

A. Yes, sir.

Q. He walked down there sometimes, didn't he?

A. He would usually ride down.

Q. Would he ever walk down, or not?

A. In some places.

Q. I believe you said these hammers, sometimes hammer steel, the crew would pick up there at the tool house, jackhammer steel, hangers and wedges?

A. That is correct.

Q. All right. Who was your boss in the heading?

A. Well, you mean prior to that time?

Q. I am talking about before May 1, 1941.

A. Before May 1st, Ira Charlton.

Q. I don't mean the name, the head miner.

A. That is the head miner. That is what you are speaking about.

Q. Well, what I am trying to get at, that was your head boss?

A. I worked under Julius Hicks and Ira Charlton.

Q. I don't care about the names.

A. I thought you wanted to know that. That is the reason I told you.

Q. Well, you understand me now. I want to know whether the mine foreman or Mr. Ball was your boss.

A. My real boss is the mine foreman.

Q. Are you under the head miner, or not?

A. I am under the head miner when I am underground.

Q. That is what I am talking about. And he is the man that gives you orders?

A. Underground.

Q. And you obey his orders?

A. Yes, sir.

Q. And he has got a right to send you where he pleases to work?

A. Well, usually I am placed by the mine foreman.

Q. Placed where?

A. On my job.

Q. Well, you are placed by the head miner. Are you the boss down there or the head miner? If you are the boss, say so.

Mr. Smith:

We object to that.

Mr. Burr:

I want him to answer my question.

The Court:

Just a minute.

Q. Now, James, do you understand what I want to know? Who is the boss when you are working there in the stope, of you?

A. The head miner.

Mr. Smith:

I object to that. He has gone over that. He said the head miner was the boss down there. I object to that.

The Court:

Overruled.

Q. When the head miner gives you orders in the stope do you obey them or not?

A. Yes, sir, I obey them.

Q. If he sends you back for material you go back and get it?

A. Yes, sir, if he tells me to go I go.

Q. Are you the boss of anybody there yourself? Is there anybody under you?

A. No, sir. I am a drag operator.

Q. You are a drag operator?

A. That is correct.

Q. These hangers, I mean the jackhammer steel and the hammers and the wedges, you say you get those sometimes as you go into your working place?

A. Into the working place, yes, sir.

Q. And you sometimes send back and get them, don't you, or go back and get them, don't you?

A. If we need them through the shift.

Q. If you need them through the shift you send back and get them?

A. Through the shift.

Q. And the place where you get them is near the unloading station, where the tools, where the supplies are kept of that sort?

A. Well, I would say something like one hundred and eighty feet or maybe further. It is two headings down.

Q. When you or one of the crew stop by in the mornings and pick up on the way to work jackhammer steel or a hanger or wedges, do all of them stop at the same time or just one man pick it up or two men, or what?

A. Well, it is according to what place you work and the position you have in the stopes. If you are a jackhammer man why tell the tipple you need a jackhammer and you will get it.

Q. Now, wait a minute right there and get through with the jackhammer. If you are a jackhammer man you pick up the jackhammer?

A. If he needed it.

Q. If he needed it during the work he would go back and get it during the shift?

A. That is right.

Q. Then if he needs hammer steel he will pick that up?

A. Sometimes he carries jackhammer steel.

Q. Would that be often or seldom?

A. Not often, but sometimes it will happen.

Q. When he picked up the jackhammer it would be occasional that he picked up jackhammer steel if he needed it, who would be the man that picked it up?

A. He was usually the man that carried it.

Q. Now, the wedges, who would pick up the wedges?

A. Any man of the crew if he needed wedges when he goes in there he would get them.

Q. Any member of the crew that worked there who needed wedges he would get them?

A. Get wedges if he needed any.

Q. What members of the crew would need wedges? The drilling men wouldn't need wedges?

A. No, sir, the drag crew.

Q. That would be confined to the drag crew?

A. Yes, sir.

Q. And they would get them as they needed them?

A. Yes, sir.

Q. And if they needed them as they got out they could get them, or if they needed them during the shift they would send back and get them?

A. Yes, sir.

Q. And the same thing is true of the hammer steel?

A. The same thing.

Q. The oil cans—the way they got the oil is right often a fellow at the end of the shift, if his can would run out about that time he would take his can on out and either leave his can or hide it so he would know where it was and the next morning he would pick it up and get it filled, that is the way it was?

A. I don't know about the hiding part of it.

Q. Well, do you know about the other part of it?

A. I know he would get his oil in the morning.

Q. Well, is that the way he would get it? Would he take his empty can on the way out sometimes and leave it and pick it up the next morning?

A. Leave it at the tool house.

Q. And pick it up the next morning?

A. And pick it up the next morning.

Q. As you stated, to use your own words, if they needed it between times you would go and get it from your working place.

Mr. Burr:

I believe that is all I want to ask him.

The Court:

All right.

Mr. Burr:

There is one other question. Pardon me, Judge Smith.

Q. You said there were some places down there where you got your feet wet sometimes.

A. There are.

Q. You don't have to wear rubber boots, do you, or raincoats, or anything like that?

A. No, sir.

Q. They are not that wet?

A. No, sir.

Mr. Burr:

All right, that is all.

Re-Direct Examination.

(By Mr. Smith):

Q. James, you said a while ago that when you got down in the mine where you commenced operating and digging ere that your boss was the head miner.

A. That is correct.

Q. All right. Now, on top who is your boss?
A. The mine foreman.
Q. The mine foreman is your boss?
A. That is correct.
Q. Are you under his direction at the top?
A. Yes, sir.

Mr. Smith:
That is all.

Re-Cross Examination.

(By Mr. Burr):
Q. Well, James, you have already told Mr. Smith that the mine foreman never gave you orders on the top. All you would do with him on top was to hand him your check?
A. And he tells me wherever I am going.
Q. He would place you by hanging your check up, wouldn't he? You don't mean to tell me that the head miner stops you there and tells you about your work?
A. I didn't say the head miner.
Q. I mean the mine foreman.
A. The mine foreman.
Q. Does he ever stop you and talk to you about your work?
A. The mine foreman takes my brass and tells me what heading to go in.
Q. Didn't you know what heading to go in?
A. Sometimes you don't work in the same heading.
Q. How often do you change?
A. When you are under one head miner you work one place and sometimes you change.
Q. Now, let's see. Where were you working on May 1, 1941?
A. No. 11, working in 66 left.

Q. How long had you been working in that place?

A. I don't know exactly.

Q. Well, about how long, a year or two years, or what?

A. Something like that.

Q. Maybe two years. All right. Now, then, before that two years where did you work?

A. Well, sometimes I might be at different places.

Q. Well, you told us this morning when you misunderstood my question, you said that you had never had but two head miners, as I recall it. You gave me the names of two head miners. Are those the only two head miners you ever worked under?

A. You asked me prior to the time of a certain date and I told you.

Q. Well, what I am asking you now, how many head miners have you worked under there for the last two years prior to that time, we will say?

A. Two; I have worked under two.

Q. Well, how many three years prior to that time?

A. Three years prior to that time?

Q. Yes.

A. Well, in '37 I was under two different ones in the same year.

Q. And since then you have been under two all the time?

A. Well, when they would be there, yes, sir.

Q. Well, if they were not there it was on account of sickness or something of that sort?

A. Sometimes they would be absent.

Q. But you had been working in 66 left about two years prior to May 1, 1941?

A. That is correct, been right there.

Q. And who was your head miner while you were working in 66 left?

A. Julius Hicks and Ira Charlton.

Q. Had two during that time?

A. That is right.

Q. During that period of time did the mine foreman ever tell you every morning that you had to go to 66 left?

A. He didn't ever tell me every morning.

Q. Well, did he ever tell you you had to go to 66 left?

A. Well, plenty of times you would go up there and he would take your number and he would say "66 left."

Q. You mean he would take your number. He had a board there?

A. He had a board there.

Q. And he would say, "66 left," and hang your check up on the board?

A. He would say, "66 left," and hang my check up on the board.

Q. That is the kind of instruction he would give you?

A. Well, he would tell me other things.

Q. What other things did he tell you?

A. Well, he would tell me when I would get to my heading he wanted me to clean up the track.

Q. The mine foreman told you that?

A. Yes, sir.

Q. What mine foreman told you that?

A. Mr. Carson has told me that.

Q. How often in the last two years?

A. Well, he would tell me that and some other things he would tell me.

Q. What else did he tell you?

A. Well, he would tell me about the top, wedging the top.

Q. What else did he tell you?

A. That is all.

Q. Are you sure that Mr. Carson, when you came by there he would tell you to wedge the top?

A. He would tell all of them.

Q. How would he say that, "wedge the top"? You would walk up to the place with your check. Now, what

would happen on these occasions when he would say, "wedge the top?"

A. Usually it would be in a bad place.

Q. How?

A. Usually it would be in a bad place and he called me.

Q. And you have been working in bad places all the time?

A. For the last five years I have been in bad places.

Q. Have you ever been hurt any during that time?

A. No, sir.

Q. Now, without reference to what sort of place you were in, what was said between you and the mine foreman when you walked up there and handed in your check, those times when he asked you about the top what did you say and what did he say?

A. I don't know exactly.

Q. I don't want exactly. I want your recollection of it.

A. Well, sometimes—

Q. I didn't say sometimes.

A. Well, he did it all the time.

Q. Well, tell me what he did say.

A. Well, at times he would say, "You fellows be careful in such and such a place," and I would say, "Yes, sir."

Q. He would say, "You fellows be careful in such and such a place"?

A. Yes, sir.

Q. He would be talking to all of you?

A. I would be standing there.

Q. Is that all he would tell you?

A. He would say, "Be careful at such and such a place."

Q. Would that be all?

A. Usually.

Q. How many times in the last two years has he told you that?

A. Several times, told me different times.

Q. I am talking about the times he told you. How many times in the last two years has he said, "You fellows be careful"?

A. I can't remember exactly.

Q. Well, one or five or a hundred or a thousand?

A. I wouldn't say.

Q. You wouldn't say it was over five?

A. I couldn't remember exactly.

Q. You wouldn't say it was over ten?

A. I wouldn't say, but he has told me different times.

Q. You wouldn't say it was over fifty?

A. No, sir.

Q. But that is what he told you?

A. Yes, sir.

Mr. Burr:

All right, you can come down.

The Court:

All right, next witness.

Mr. Smith:

Mr. Evans, A. E. Evans.

3125 A. E. EVANS, being called as a witness, and being duly sworn, testified as follows:

Direct Examination.

(By Mr. Smith):

Q. Your name is A. E. Evans?

A. Yes, sir.

Q. How old are you, Mr. Evans?

A. Thirty-two.

Q. Where were you born and raised at?
A. Alabama.
Q. Go to the public schools?
A. Yes, sir.
Q. What grade did you go to?
A. Eighth grade.
Q. Do you work for the Tennessee Company out at Red Mountain?
A. Yes, sir.
Q. What mine?
A. No. 4 Muscoda.
Q. Now 4 Muscoda?
A. Yes, sir.
Q. How long have you been working there?
A. Since January, 1937.
Q. What jobs have you had there since you have been there?
A. Well, I started in as a track helper.
Q. A what?
A. A track helper.
Q. What else? How long did you work at that?
A. Well, I didn't work but about two or three shifts on that.
Q. What next?
A. Timber crew.
Q. Timber crew. How long did you work on that?
A. About three months.
Q. Then after that?
A. I went to No. 4 then when it started up and started running a hoisting engine.
Q. No. 4 is one of their old mines?
A. I first worked at No. 6.
Q. How long did you work at that?
A. Well, I went on the extra board. Sometimes I would run a hoist and sometimes a section helper.
Q. Well, you got to be a drag operator?

A. Yes, sir.
Q. Drag operator now?
A. Yes, sir.
Q. How long have you been a drag operator?
A. Well, since February.
Q. February, '41?
A. Yes, sir.
Q. Now, since October 26, 1938, up until May 1, 1941, what time have you been reporting for duty in the mornings on the shift?

Mr. Burr:
Your Honor understands we have got that objection. It is understood all through here. He used the word, "report." I haven't repeated it because I didn't want to waste the time repeating it.

The Court:
Correct.

Q. What time did you get there?
A. Well, I usually get to the bath house at 5:30.
Q. Change your clothes at the bath house?
A. Yes, sir.
Q. Put on your work clothes?
A. Yes, sir.
Q. Where did you go then?
A. Go to the tally house.
Q. What did you do at the tally house?
A. Put my check number in.
Q. What time did you get to the tally house?
A. Just as soon as I got there. That was before May 1st?
Q. Yes. About what time would you put up the check there on an average?
A. Well, about twenty minutes to six or fifteen minutes to six.

Q. Fifteen to twenty minutes to six?
A. Yes, sir.
Q. Then you got your carbide?
A. Got carbide; got it at the bath house.
Q. Who did you work under; who is your head boss?
A. In stopes the head miner.
Q. Who is your boss on the outside?
A. The mine foreman.
Q. Do you report to anybody up there at the tally house in the morning?
A. No, sir, I just hand my check number in.
Q. You just hand your check number in?
A. Yes, sir.
Q. Are you assigned there anywhere by anybody?
A. Well, when I was on the extra board I would come up and the mine foreman would find out a crew was short and he would say, "You are on the board so and so."
Q. If you didn't you would take your regular crew?
A. Yes, sir. If I was on the extra board I didn't have a regular crew. I would just have to watch and find out.
Q. What time did those man skips run between October 26th, '38, and May 1st, '41?
A. Well, it usually ran from five minutes to six on up.
Q. To what time?
A. Until all the men got in.
Q. How many trips did they run?
A. Well, the day shifts ran more than night shifts.
Q. Well, ordinarily?
A. About five skips.
Q. What time did you ride down?
A. The first skip.
Q. That would leave what time?
A. About five minutes to six.
Q. Who would supervise the loading of the man skip there?
A. The assistant mine foreman.
Q. That was your outside boss?

A. Yes, sir.

Q. Then you go from there to your man loading station?

A. Yes, sir.

Q. How far is that down in the mine?

A. Between five thousand and six thousand feet.

Q. I don't mean the farthest place in the mine. I mean the man unloading station down there.

A. You mean from the outside?

Q. Yes.

A. Where we check in and where we unload?

Q. Yes.

A. About five thousand to six thousand feet.

Q. What mine is that?

A. No. 4.

Q. Now, who supervised the unloading down there?

A. Well, I would usually ride a first drag down and the skip tender he rides it down.

Q. The skip tender?

A. Yes, sir, he stops the skip and we unload and he sends the skip back out.

Q. Now, when you got down to the unloading station there, Mr. Evans, what did you do then?

A. Well, if I know where I am going I go straight to the crew I am going to.

Q. You go straight to your place?

A. Yes, sir.

Q. Do you take any tools?

A. If I am not a regular man I don't. When I was on the regular crew I did.

Q. When you were on the regular crew you did take them?

A. Yes, sir.

Q. How long have you been on the regular crew?

A. I have been on the regular crew for the past two years.

Q. So you did take tools with you?

A. Yes, sir.

Q. What tools did you take with you from the man unloading station or at the tool house down to the regular place of operation?

A. We didn't have a regular place. If I was on the top I would take them to the bath house and hide them in the weeds—

Mr. Burr:

I didn't hear that.

A. (Continuing) If I was on the day shift I would take them to the bath house with me and hide them in the weeds; I would take my jackhammer steel and hide them in the weeds outside near the bath house and then the next morning when I changed my clothes I would get my steel and go to the supply house or the steel house.

Q. Was the supply house on the outside of the mine?

A. Yes, sir, below the bath house.

Q. And you would carry those down on the drag with you?

A. Yes, sir.

Q. On the skip with you?

A. Yes, sir.

Q. And then after you got off of the skip you would carry them to your working place?

A. To the working place.

Q. To the place you commenced digging ore?

A. Yes, sir.

Q. How about the place you got oil down there, where did you get your oil at?

A. Well, we have a drum, I guess about five hundred feet from where we work.

Q. You have a drum about five hundred feet from where you work?

A. Yes, sir.

Q. Would you carry your oil on your way to the beginning of your work?

A. Yes, sir.

Q. Carry that with you?

A. Yes, sir.

Q. From where you left your can to the place of work?

A. Yes, sir.

Q. About what time would you get to the place where you actually commenced mining ore?

A. Well, I got there about 6:20 or 6:25.

Q. What would you do between that time and 6:45? I believe the juice comes on down there at 6:45, doesn't it?

A. No, sir, I don't know of any certain time it comes on. Sometimes the electrician will ride a first drag down and sometimes he won't.

Q. What time did you say you got down there in the morning?

A. About 6:20.

Q. What did you do; your regular time commenced at 6:45?

A. Yes, sir.

Q. That is when your pay starts?

A. Yes, sir.

Q. Six-forty-five. After you get down there before 6:45 what do you actually do?

A. Well, if the juice is not on I usually go up in the stope and help them quarry out and take the hangers out.

Q. I am talking about the drag operator now.

A. I take these hangers out and move them away so they can quarry out and set up the drill.

Q. Who indicates to you where to go at 6:45 when the pay starts.

A. No one. Just as soon as the juice is on we are ready to hang up and we start to loading.

Q. What time do you leave the place down there?

A. When the lights go out.

Q. What time is that?

A. Three o'clock.

Q. Three o'clock. You leave at three o'clock?

A. Yes, sir.

Q. How long does it take you to get down to the man loading station?

A. Well, it took me about twelve to fifteen minutes.

Q. About twelve to fifteen minutes?

A. Yes, sir, because I never rushed to get there.

Q. How far would you have to walk?

A. I would say about two thousand feet.

Q. About two hundred feet?

A. Yes, sir.

Q. Then you would get through about three o'clock, you say?

A. No, we got through about 3:15.

Q. About 3:15?

A. Yes, sir.

Q. How long, if you catch your drag promptly, would it take you to get out?

A. Well, if I catch it promptly it would take me about seven minutes to get out, but I never did get it, though.

Q. What time would that put you out?

A. About ten minutes to four.

Q. If you catch the first drag?

A. Oh, no, sir. If I caught the first drag I would be out about 3:30.

Q. But you got out at ten minutes to four?

A. Yes, sir.

Q. You got paid for eight hours?

A. Yes, sir.

Q. You are actually in the mine for what time from the time you leave the top until you get back to the top?

A. Well, from five minutes to six until ten minutes till four.

Q. Well, in your own words what is it?

The Court:
That is clear enough.

Q. I mean the total hours.
A. Well, approximately nine hours and forty minutes.

Mr. Smith:
I just wanted him to make his own calculation. Some of the brothers here have been making a good many of their own. All right, take the witness.

Cross Examination.

(By Mr. Burr):
Q. Mr. Evans, you have been a drag operator about two years?
A. No, sir, since February, 1941.
Q. Just since this past February?
A. Yes, sir, regularly.
Q. Now, then, you say you always caught the first drag down?
A. Yes, sir, when I was on a regular crew I caught the first drag down.
Q. Did all the rest of your crew catch the first drag?
A. Not all of them. Sometimes they didn't get it.
Q. Sometimes the second, third or fourth?
A. It never came out that way. Either the first or second.
Q. Either the first or second. What time did your head miner get to your place; did he get there before you or after you?
A. He wouldn't get there with me. Sometimes he would get there a drag after me.
Q. Sometimes after you?
A. Yes, sir.
Q. You were always the first to get there?
A. No, sir, not always. Usually I am among the first to get there.

Q. Usually you are the first to get there?

A. Yes, sir.

Q. Now, as drag operator what did you do?

A. Well, a drag operator operates the mechanical loader, but the way we work we do anything that comes to hand.

Q. Anything that your head miner tells you to do?

A. Yes, sir.

Q. He is your boss down there in the stope?

A. Yes, sir.

Q. As operator of the drag you haven't got anything to do with the drilling there in the face?

A. No, sir.

Q. That is done by the head miner and the drill crew?

A. Yes, sir.

Q. When you say you catch the first drag about the quickest you can get up to your working place is about 6:20?

A. Yes, sir.

Q. That is, assuming that you leave—I believe you said you generally leave about five minutes to six?

A. Yes, sir, and sometimes leave a little later.

Q. Now, to refresh your recollection on that, Mr. Evans, don't you know that the drag is not taken out of the sidetrack for a test run until nearly six o'clock?

A. The drag is not in the sidetrack.

Q. The skip I am talking about.

A. The skip is not in it.

Q. There is not any skip on it?

A. The split shift, the haul down crew, use it, what we call the haul down crew.

Q. They don't use it all the time?

A. They use it until they change it.

Q. Well, you don't mean it is necessary to make a shift with ?

A. Well, it is on Sunday when no one is using the skip.

Q. They don't take it out until six o'clock?

A. No, sir.

Q. What I am getting at, are you certain that you got away from there at five minutes to six?

A. I did.

Q. Did you set your watch?

A. Yes, sir. Every man that gets in the skip that has a watch tries to set it with the six o'clock whistle.

Q. And sometimes it leaves a few minutes before six, and sometimes after six?

A. Very seldom after six.

Q. And you usually catch the first skip?

A. Yes, sir.

Q. And you say you usually catch the first skip that leaves at six or five minutes to six; how long does it take to go down to the unloading station?

A. I would say it takes about seven minutes.

Q. And you walk how far?

A. About two thousand feet.

Q. And how long does it take you to walk up to the stope?

A. Well, if I walk real fast—

Q. I am talking about what you do.

A. Just natural walking, about twelve to fifteen minutes.

Q. When you get up there then you think that would be around about 6:20?

A. 6:20 to 6:25.

Q. 6:20 to 6:25. Now, did you work during the day until your dragging is over with?

A. That is right.

Q. Of course, you couldn't work after the juice is shut off?

A. No, sir.

Q. The juice is shut off at three o'clock?

A. Yes, sir.

Q. So your work is over with at three o'clock, that is right, isn't it?

A. Yes, sir.

Q. And you have a lunch period of thirty minutes in between?

A. Yes, sir.

Q. And your actual drag operating starts around about 6:45 or 7:00?

A. If the juice is on and we are hung up with the much pile we start dragging then, regardless of whatever time it is.

Q. Well, it can't be before 6:45?

A. No, sir.

Q. Yes. And some can't get up there that early?

A. No, sir.

Q. Some do and some don't?

A. Yes, sir.

Q. Some get there as late as 6:40 or 6:45?

A. No, sir.

Q. Well, they get there at 6:40, don't they?

A. Some get there then, yes, sir.

Q. If they used every minute of the time it would take sever minutes longer than you and take fourteen minutes?

A. Well, different engineers run at different speeds.

Q. Well, they would have to come back up after you got off?

A. Yes, sir.

Q. They run three trips?

A. No, sir.

Q. How many trips?

A. Well, they run about five trips the day shift.

Q. About five trips?

A. Yes, sir.

Q. You say you had some steel that you would take out and hide in the weeds. That would be the steel that was used for the—

A. Jackhammers.

Q. The jackhammers to drill the holes for the hangers?

A. The jackhammers, yes, sir.

Q. That is that small drill, short steel?
A. Yes, sir.
Q. And it is the steel you take out?
A. Yes, sir.
Q. How big is?
A. Well, anywhere from a foot long up to a foot and a half or two feet long.
Q. That steel is taken out and sharpened?
A. It is to replace it, get new steel.
Q. To be resharpened?
A. No, we leave that at the steel shop to be resharpened, and then they will have some for us.
Q. And during the shift if you needed any steel the head miner can send out and get it wherever he pleases?
A. No, sir, I never saw it done.
Q. You never saw that done?
A. No, sir. That was up to the drag crew to keep the wedges and jackhammer steel there, if we had to go outside to get it.
Q. Who would tell you to go out and get it?
A. Well, we would know. If the steel would be dull we would take a bunch out that evening and hide it.
Q. How many would you take out?
A. According to how many needed it.
Q. How often was the steel tempered?
A. Well, I have taken it out as high as three times a week.
Q. Well, how low would it be taken out?
A. Once.
Q. Run from one to three times a week?
A. Yes, sir.
Q. Then you would take it out and hide it in the weeds on the outside?
A. Yes, sir.
Q. Then the next morning you would go get it?
A. Yes, sir.
Q. The supply house opened at seven?

A. Sometimes before.

Q. Mr. Evans, don't you know the supply house never did open up until seven?

A. I am not talking about the supply house. I am talking about the steel house.

Q. The steel house is not opened before?

A. A colored fellow comes there and starts a fire and he opens the door.

Q. Well, the colored fellow would give you steel?

A. Yes, sir.

Q. How often would he do it?

A. Every time I go down there.

Q. You would go down there and the colored fellow would give you sharp steel?

A. Yes, sir.

Q. I am talking about yourself now?

A. Yes, sir.

Q. Then you would carry it down to your place?

A. Yes, sir.

Q. Now, would there be a requisition made for that, or not?

A. No, sir, not when you were swapping, but there would be when you would get new steel.

Q. Now, when you did that would you catch the first drag?

A. No, sir.

Q. You couldn't catch the first drag then?

A. No, sir.

Q. So on those days, on the once a week or three times a week when the steel wasn't tempered right you wouldn't catch the first drag?

A. No, sir.

Q. Catch the second, third or fourth?

A. Whatever drag it was.

Q. Well, what drag would that be?

A. That would be the next drag.

Q. And that would be about when?

A. Probably run about 6:30.

Q. That would take you seven minutes to get down to the bottom?

A. Yes, sir.

Q. And that would put you there at 6:37?

A. Yes, sir.

Q. Then you would walk up to your working place. That would take you another fifteen minutes. That would put you there around 6:52 to 7:00 o'clock, and your time started at 6:45.

A. My time started at 6:45.

Q. That is when you got paid, from 6:45 to 3:15, with a half hour for lunch?

A. Yes, sir.

Q. And has been ever since you have been working there?

A. As far as I know.

Mr. Burr:

That is all.

Re-Direct Examination.

(By Mr. Smith):

Q. Mr. Burr asked you if your work was over at three o'clock. Do you mean you quit operating your mechanical loader at three o'clock?

A. Yes, sir, we quit operating because there was no electricity.

Mr. Smith:

That is all.

Re-Cross Examination.

(By Mr. Burr):

Q. When you were working on this regular crew did you have a seven-man crew?

A. Yes, sir.
Q. Just like the others?
A. Yes, sir.

Mr. Burr:
That is all.

Mr. Smith:
Mr. Praytor.

3143 ARTHUR PRAYTOR, being called as a witness and being duly sworn, testified as follows:

Direct Examination.

(By Mr. Smith):
Q. Your name is Arthur Praytor?
A. Yes, sir.
Q. How old are you, Mr. Praytor?
A. Thirty-four.
Q. Where were you raised at?
A. Here in Alabama.
Q. Here in Alabama?
A. Yes, sir.
Q. Did you go through public school?
A. Yes, sir.
Q. Now, Mr. Praytor, how long have you worked with the Tennessee Coal, Iron & Railroad Company?
A. About eighteen and a half years.
Q. Has all of that time been in the ore mining operation?
A. Yes, sir.
Q. At what mine?
A. Well, in Muscoda in general, No. 6 and No. 4.
Q. Generally what?
A. No. 4 and No. 6.

Q. No. 4 and No. 6, Muscoda?

A. Yes, sir.

Q. What different jobs have you had there during those eighteen years? I believe you are a head miner now?

A. Yes, sir, since '37.

Q. Just recite briefly how you came to be a head miner?

A. Well, when I went in the mine I was sixteen years old and I started driving a mule, and then from there I went to running a hoisting engine, and then I went on the timber force, and from there to drill helping and some drilling, and then went to a drag operator and from drag operator to head miner.

Q. How long have you been a head miner?

A. Since '37.

Q. Since 1937?

A. Yes, sir.

Q. And you have been continuously since October 24, 1938, I believe, right up to May 1, 1941?

A. Yes, sir.

Q. Continuously a head driller?

A. Head miner, yes, sir.

Q. I mean head miner.

A. Yes, sir.

Q. Now, Mr. Praytor, just practically what time did you report during the period I have stated to what is called the tally house, bath house and tally house?

A. Well, I usually as head miner, I want to be one of the first men down on the inside to examine my place. I get to the tally house along about fifteen minutes to six.

Q. That is after you have been to the bath house and changed your clothes?

A. Yes, sir.

Q. And you get your carbide at the tally house?

A. At the bath house.

Q. Then you go to the tally house?

A. Yes, sir.

Q. Then what do you do with your brass check?

A. Well, sometimes I hang it on the board myself and sometimes the mine foreman or the time taker would hang it on the board.

Q. Sometimes the mine foreman or the time taker would hang it on the board?

A. Yes, sir.

Q. Now, would you assemble your workers there who worked under you as head miner at the bath house?

A. No, sir.

Q. What was done about that? I mean the tally house.

A. We were given the privilege to hire our own crews, to get the best men we could to produce ore, and after I hired this crew in the same year, '37, I had the same men all the way through and they knew where they was going and they would check in to the time taker or the mine foreman.

Q. Who was in charge of the tally house there in starting off the skips and seeing that the men got in properly?

A. At No. 4 the assistant mine foreman.

Q. How about at the other mines you have worked in?

A. Well, the skip tender usually.

Q. The skip tender usually?

A. Yes, sir.

Q. Now, would the mine foreman give you any orders there with respect to what should be done during the day?

A. Not unless there was some new driving to be done or a rock fall in the mine, or something, why he would caution us about those things.

Q. Something out of the ordinary?

A. Yes, sir.

Q. He was there all the time when you reported to see that the thing started off, and if there was anything unusual he called it to your attention up there before you caught the skip?

A. Yes, sir.

Q. Now, what time would the first skip go down during the time that you have mentioned?

A. Well, sometimes she would leave about five minutes till six up until six o'clock.

Q. From five minutes till six up until six o'clock?

A. Yes, sir.

Q. What skip did you usually ride?

A. As head miner I usually caught the first skip.

Q. As head miner you usually caught the first skip?

A. Yes, sir.

Q. Now, what time did you get down to what is called the man loading station?

A. Well, it will run from—it ran from about five minutes after six, that is, if we left the top at six o'clock, well, we got there at five minutes after six until seven minutes after six o'clock.

Q. It takes five minutes to make the trip to the man loading station?

A. Yes, sir.

Q. After you got down there what did you do?

A. We go directly to our working place.

Q. Would you carry any tools that you had to work with on that trip?

A. Yes, sir, sometimes I have carried hangers and wedges, but usually I directed the crew when to get them and they brought them themselves.

Q. It was either you or your crew that brought them?

A. Yes, sir.

Q. How did you go about directing them?

A. Well, I checked what we needed. If I needed hangers or jackhammer steel I would tell the motor runner that we needed so much steel probably, and he would go up and get a requisition from the mine foreman and when I came in the next morning he would bring it with him.

Mr. Burr:

Who is he?

The Witness:

That is the trammer, one of my crew.

Q. At the man loading station?

A. He would get them outside.

Q. He would get them outside?

A. Yes, sir.

Q. And bring them down to the working place?

A. To the working place, yes, sir.

Q. And your crew, that is the ordinary way that they got them there to your crew?

A. Yes, sir.

Q. How far did you have to walk from the man unloading station to the place where you actually commenced operation?

A. I would say thirty-five hundred feet.

Q. How did you go up there, how did you get up there?

A. We travel down the manway about two hundred feet and then we get on the haulage, we go up the haulage all the way until we turn in our heading.

Q. Is that rough or smooth?

A. We have got walking paths.

Q. Is it up hill or down hill?

A. It is up hill going in.

Q. Up hill going in and down hill coming out?

A. Yes, sir.

Q. Now, what time do you actually start your operation of running the drill and getting ore?

A. Well, we all don't get there the same time. Usually the drag operator and myself are the first men there, ride the first trip.

Q. What time do you get there?

A. Well, ordinarily six-thirty.

Q. What time would your crew actually assemble and get to work?

A. Well, some time it was after a quarter to seven.

Mr. Burr:

I didn't hear that.

The Witness:

I said some time it was after a quarter to seven before all of them would get to the heading.

Q. Now, when you got there at six-thirty—you say you got there on an average of six-thirty?

A. Yes, sir.

Q. Now, what would you do immediately after that, from then on?

A. Usually I would check my place to see if there was any dangerous conditions and what operations would take place so I could direct the men as quick as they got to the heading.

Q. And what time would your juice go on?

A. Well, sometimes the electrician rode the first drag with us and then it would go on about six-ten and sometimes it was later. I have gotten to my heading at six-thirty and it went on by six-thirty.

Q. Quite frequently it never went on before six-forty-five?

A. Yes, sir.

Q. Was that the general rule, it went on more at six-forty-five than it did at six-thirty?

A. Yes, sir, it went on more.

Q. Then you could start operation?

A. Yes, sir, then we could start operation.

Q. What time did you leave your working place?

A. Three o'clock.

Q. Three o'clock?

A. Yes, sir.

Q. And you would go from there, the place where you had been drilling, getting out the ore, to the man loading station?

A. Yes, sir.

Q. And you walked the same distance going back to the man loading station as you did coming in?

A. Yes, sir.

Q. And it was up hill?

A. That was down hill going back.

Q. Down hill?

A. Yes, sir.

Q. Now, when you got to the man loading station how would you get out of the mine?

A. Well, as head miner—well, everybody there was before us because we had to shoot and we had to wait until the last drag usually because we were the last to get to the hoodlum, as we call it, the loading station.

Q. Now, what time would you get to the top of the mine?

A. About, I would say, ten or fifteen minutes till four.

Q. Ten or fifteen minutes to four?

A. Yes, sir.

Q. And then you would go get your check?

A. Yes, sir.

Q. Go get your check?

A. Yes, sir.

Q. And you were paid for eight hours?

A. Yes, sir.

Q. Now, just tell the Court there how many hours you were in the mine from the time you hung up your brass check until you actually got back and took that check up.

A. Well, counting the dinner hour I think we were in the mine nine and a half hours.

Q. Nine and a half hours?

A. Yes, sir.

Q. And you were paid for eight hours?

A. Yes, sir.

Mr. Smith:

Take the witness.

Cross Examination.

(By Mr. Burr):

Q. You say with your dinner time you figured you were inside nine and a half hours?

A. Yes, sir.

The Court:

Mr. Burr, we will take a recess.

Mr. Burr:

Your Honor, just this one question.

Q. You had a half hour for dinner?

A. Yes, sir.

(A short recess was then taken.)

Mr. Burr:

Is Your Honor ready?

The Court:

Yes.

Q. Mr. Praytor, you have been working with them continuously eighteen and a half years at either No. 4 or No. 6?

A. Yes, sir.

Q. Did you have any mining experience anywhere else other than the Tennessee Company?

A. No, sir.

Q. Now, Judge Smith asked you about conditions, the questions you answered to him having reference to the period of October 24, 1938 to May 1, 1941. I want to ask you if substantially those same conditions have existed ever since you have been working there.

A. Yes, sir, they have been substantially.

Q. Practically the same?

A. Yes, sir.

Q. Been quite a few changes every now and then?

A. Yes, sir, as the mine advanced there have been some changes.

Q. Of course, as the mine advanced your walking distance, of course, gets farther away?

A. Yes, sir.

Q. And your experience has been, as you have stated, all the way from mule driver up to head miner?

A. Yes, sir.

Q. Now, as head miner it was your job to see that your working place was safe before you let your men in to work?

A. Yes, sir.

Q. And in order to perform that job you always tried to be there first?

A. I did.

Q. Caught the first drag in order to attend to your work?

A. Yes, sir.

Q. And that is what you usually did when you first got down there?

A. Yes, sir.

Q. And what you always did when you first got down there?

A. Yes, sir.

Q. Now, you say sometimes you would hang your own check on the nail as you went by and other times you would hand it to the foreman?

A. Yes, sir.

Q. Or the tally man, and other times you would hand it to one of your crew to hand in?

A. Well, that has been done.

Q. I believe you said you had the same crew pretty well ever since you have been head miner?

A. Yes, sir.

Q. Have you been working in the same place recently, or not?

A. Well, as we work out a place, of course we go into a new one, but it has been on practically the same haulage ever since I have been head miner.

Q. The same haulage?

A. Yes, sir.

Q. What haulage is that?

A. That is the southwest haulage, No. 4 mine.

Q. Southwest haulage, No. 4 mine?

A. Yes, sir.

Q. Your crew was under you, of course?

A. Yes, sir.

Q. All the time?

A. Yes, sir.

Q. Now, you say that occasionally—well, I will take it this way first: If anything unusual happened in your heading, like a breakdown or anything of that sort, you report that, I suppose, to the mine foreman?

A. I would, directly to him.

Q. Directly to him, and if anything unusual happened between shifts, when you came in why the mine foreman would tell you about it?

A. Yes, sir.

Q. And caution you about it?

A. Yes, sir.

Q. And tell you something was done, or something of that sort?

A. Yes, sir.

Q. And then you would go ahead to your work as usual and work in accordance with the condition of the place?

A. The condition of the place and his instructions.

Q. Now, did he give you any instructions other than just telling you what sort of condition the place was in, or not?

A. No, sir.

Q. As you said, he cautioned you about anything unusual?

A. That is right.

Q. Now, I understood you to tell Judge Smith that you would get to your place usually about what time?

A. Six-thirty.

Q. About six-thirty; that would be when you would get there?

A. Yes, sir.

Q. And then your crew would get there any time between then and what time?

A. When the last drag runs.

Q. When the last drag runs. That would throw it there between six-thirty and seven o'clock?

A. It would be seven o'clock sometimes; sometimes it would be five minutes after, according to what time he walked from the loading station to the heading, the time the last drag got down.

Q. And sometimes you didn't actually start work, I believe you said, until after six-forty-five?

A. Well, just according to how many men was there. If the usual number of men was there we started at that time, but if not we wouldn't start until the rest of them got there.

Q. But usually you wouldn't start until seven o'clock?

A. Yes, sir.

Q. Usually the first man would be the head driller?

A. Well, the drag operator and myself was usually the first ones there.

Q. Did the drag operator usually get down with you, about the same time?

A. Yes, sir.

Q. Around six-thirty?

A. Yes, sir.

Q. Now, this same drag operator, he was usually the first one to get through in the afternoon, wasn't he?

A. Well, usually about three o'clock, or just about the time for the lights to go off, and then it was his duty to assist—

Q. Then he would go down to the hoodlum at three o'clock?

A. Yes, sir.

Q. Who stayed with you to shoot?

A. The drill man.

Q. With the exception of you and the drill man they would all leave there?

A. Yes, sir.

Q. As a matter of fact they got through before three, didn't they?

A. They cleaned up and got through but they were not allowed to leave the heading until three o'clock.

Q. You kept them and they were not allowed to leave until three o'clock?

A. Yes, sir. They wasn't allowed.

Q. What time would you say they usually got through with their work?

A. Well, at different times of day, according to how much ore you had shot down.

Q. Well, sometimes as early as two o'clock or two-thirty?

A. They never left the heading.

Q. I know that, but what I am getting at, you say that sometimes they got through with their work and just stayed around until three o'clock?

A. Yes, sir.

Q. What time would be the earliest time?

A. Well, at the first, we obey their schedule there at the first of the drilling to start off shooting. You had a narrow place and you couldn't break very much ore. As you advance your working place you get wider. You would start off breaking eight or ten cars and probably you would break up forty-five or fifty when you got back

in your stope, and in case you had eight or ten cars you would get through early.

Q. It all depends on the place and how much ore you had broken up?

A. Yes, sir.

Q. The dead line for your crew was three o'clock?

A. That is right.

Q. And your working time depended on the place and the character of the ore and how much you had broken down?

A. Yes, sir.

Q. Now, during all of this time your pay has run from six-forty-five to three-fifteen?

A. It runs from $6.16.

Q. I don't mean in money, I mean in time.

A. Yes, sir.

Q. Six-forty-five to three-fifteen?

A. It would run anywhere from six-forty-five to three-fifteen.

Q. Now, you mentioned having your crew—you said that you would check how many hangers or wedges, I believe you said, hanger steel, I meant to say—

A. Yes, sir.

Q. That you would need and would give a requisition to some member of your crew?

A. Yes, sir.

Q. Now, then, since you have been working there there have been some variations in where or how you got that requisition filled, haven't there?

A. Well, it has been practically the same.

Q. Well, now, for a while didn't you have to send that requisition down to the supply house to be filled?

A. Well, would go to the shop with it for a while, yes, sir.

Q. And then subsequent to that why they fixed a place up to the carbide house?

A. Yes, sir, the bath house.

Q. The bath house?

A. Yes, sir.

Q. Where you got carbide?

A. Yes, sir.

Q. Now, during that period that you went to the shop for these same supplies you would send one man down to the shop and when the shop opened why he would get them and bring them up to the skip and put them in that basket, or have you got a basket?

A. Got a basket on the bail of the skip.

Q. And bring them down. Of course, he wouldn't catch the first skip?

A. No, sir.

Q. It would be later when he got to your place of work?

A. Yes, sir.

Q. Probably got in at seven or seven-thirty?

A. At some time between six-forty-five and seven-five.

Q. Six-forty-five to seven-five or ten, or what did you say?

A. Seven-five to ten. He usually brought them down on the same drag he came on.

Q. After you got carbide—after you established a place there where you could get them at the same place in the same way, he would pick them up there?

A. Yes, sir.

Q. And bring them down?

A. That is right.

Q. Usually there would be one member of your crew or sometimes two?

A. Sometimes two. If I had more men I would split them up. Say we needed thirty hangers or thirty wedges, I would split them up.

Q. According to how short you were or how much material you needed?

A. That is right.

Q. There was a time there, Mr. Praytor, when the stuff was brought down and put on the timber tongue?

A. Yes, sir, there was.

Q. And when that was done, why you head miners, you were anxious to have as much of that in your heading as you could at a time and keep a full supply, wouldn't you?

A. Yes, sir, so we wouldn't run short.

Q. And during that time if the head miner was the first man that got there, take it off?

A. Yes, sir, maybe leave the other fellow without any.

Q. So it was really at you all's request, that you requested a requisition to the mine foreman?

A. The way it started, they would haul them down and, like you say, some would get it all and others wouldn't have any, and we would go to the mine foreman and ask for a requisition.

Q. Wait a minute. You would ask for a requisition and send for them?

A. Yes, sir.

Q. That would take time from your production, wouldn't it?

A. Well, of course, they would bring them in at the beginning of the shift.

Q. All right, go ahead. Tell me what happened.

A. I said that is the way it started.

Q. That is the way it started?

A. Yes, sir.

Q. Now, of course, as head miner, if you ever did run out of oil or anything else between shifts you would send your men back to get it?

A. They didn't require us to bring it up at the beginning of the shift. That was up to the head miner himself as to what he had his men to do. Sometimes the drag operator would bring the oil out at the end of the shift. Sometimes a gallon of oil runs two or three shifts. Usually while the drill men were setting up and quarrying out he would have time to get us oil, in my own heading any way.

Q. In your heading you run it as it is most convenient to you and your men?

A. Yes, sir.

Q. And, of course, you would send your men at any time you needed it?

A. I could send my men out during the shift any time.

Q. That you wanted to?

A. Yes, sir.

Mr. Burr:

That is all I want to ask him.

Re-Direct Examination.

(By Mr. Smith):

Q. Let me ask you this question here: Mr. Praytor, you said your time ran around ten hours. That is from the time you hang up your hook until you get back?

A. Well, I say, judging. I didn't count the times. I said that is the way I calculated it.

Mr. Burr:

He said nine and a half hours.

Q. Nine and a half hours?

A. Yes, sir.

Q. And you get paid for eight?

A. Yes, sir.

Q. You haven't got any time or time and a half overtime that way, either, have you?

A. No, sir.

Q. Up until now?

A. No, sir.

Q. Has anybody else been paid for that, that you know of?

A. Well, sometimes they have a skip tender and he was paid.

Q. I mean your regular producing crew.

A. No, sir.

Q. Now, you say you have been there seventeen years in the same mine. How far has the mine progressed in that time with reference to having to walk and convenience to getting to your place of work in that seventeen years?

A. Well, I would say the mines have advanced at least a mile.

Q. One mile?

A. One mile in the length of the haulages.

Mr. Burr:

Wait a minute. Let him answer your question.

Q. So when you get in the mine now—

A. I say the length to the bottom of the slope. They were mining on a different system to what they were when I went in the mine. I would say the haulages in length have advanced probably a mile.

Q. The haulages in length have advanced probably a mile?

A. Yes, sir.

Q. In the seventeen years you have been there that mine has advanced farther a mile, that you would have to bring material and walk a mile farther going and a mile farther coming back?

A. Yes, sir.

Mr. Smith:

That is all.

Re-Cross Examination.

(By Mr. Burr):

Q. Just a few other questions. You say the skip tender is a nine-hour man, is that what you mean?

A. Yes, sir, he was a nine-hour man.

Q. He gets paid for the extra hour?

A. Yes, sir, he gets paid for extra time.

Q. I forgot to ask you this question: You said in answer to one of Judge Smith's questions that the skip tender coming out—I believe you said the mine foreman coming out and the assistant mine foreman going in supervised him?

A. At No. 2 mine, where I work, the assistant mine foreman is in charge at both stations.

Q. The assistant mine foreman is in charge at both stations?

A. Yes, sir.

Q. Now, you have got what you sometimes call the bull pen?

A. Yes, sir.

Q. And he sees how many get on the skip and counts them out?

A. Yes, sir, coming out.

Q. He counts them?

A. Yes, sir.

Q. And the same thing going in?

A. Going in they load until they have a load, what he judges is a reasonable load, and then they go ahead.

Q. That is what you mean by supervise?

A. Yes, sir.

Mr. Burr:

All right, that is all.

Mr. Smith:

Come down, Mr. Praytor. Now, if the Court pleases, we have got a number of witnesses back there that I just made up my mind are just absolutely cumulative and I haven't got the heart to impose on the Court, so we are going to close.

Mr. Burr:

Are you gentlemen through?

Mr. Harris:

No, I haven't closed. There were some minutes of meetings between different union committees and officers of the Tennessee Company.

Mr. Burr:

Well, I had those minutes. I just want to be certain.

Mr. Harris:

I haven't got the original subpoena. Does the clerk have it?

Mr. Burr:

Does anybody have a copy of it? If you will let me see a copy, I just want to check and see that I have given them all that we have been asked to give them. You can go ahead, Mr. Harris, if you want to.

Mr. Harris:

Well, first I want to introduce, in the book marked Meetings with Muscoda Committee International Union of Mine, Mill and Smelter Workers—I want to introduce the minutes of February 18, 1936. It has been marked. The pages are not numbered, but the minutes are at the top.

Mr. Burr:

General meeting of what? They are divided into sets.

Mr. Harris:

I will find it for you in just a second.

Mr. Burr:

February what?

Mr. Harris:
February 18, 1936.

Mr. Burr:
The front of it will show you whether it is a general meeting or whatever it is.

Mr. Harris:
The front of this reads on this one—I have got the right one—Meetings with Muscoda Committee, International Union, Mine, Mill and Smelter Workers.

Mr. Burr:
That is right. That is a local meeting at Muscoda.

Mr. Harris:
I don't see it right now, but there are in here minutes of February 18, 1936. If Your Honor will indulge me just a second.

Mr. Burr:
I have a suggestion about those minutes, and I think it would save time, if Your Honor would care to hear it.

The Court:
All right.

Mr. Burr:
We were called on, as Your Honor knows, to present all the minutes we had at Muscoda, Wenonah and Ishkooda and the general meetings that were held with the General Committee, which were always held at Muscoda separately, and we have presented those as far as we know. Now, it seems from Colonel Harris that he is going to offer some special ones selected out of there. I want an objection to each one he offers and an exception to it.

Now, what I want to do is to offer all of them for the sole purpose of having him and us read them all so that we can abridge the record later.

What I am offering them for is to show that in none of these meetings was the question of traveling time presented. I think to put them all in as evidence would be unnecessary and take up too much time and too much record. So I was going to suggest that we just consider all of them in with the understanding that if any special meetings are called attention to by him that I have an exception to that.

The Court:

Are you going to introduce them all?

Mr. Burr:

Yes, sir, for that purpose. What I would do if I offer them all—I wanted to save having to do that—if they have read them all, if I can get a stipulation from them after they have read them that traveling time is not referred to. That is all in the case.

Mr. Harris:

I don't want to make any agreement of that sort because I think a lot of them are not material or relevant, if the Court pleases, and I have gone through and picked out the ones.

The Court:

Let him offer them.

Mr. Burr:

Let him offer them, and I will probably have to examine Mr. Harris. If he has read them, that there is no portal-to-portal discussion in here.

The Court:

Have you any objection to them?

Mr. Burr:

I can't conceive where they are relevant for this purpose—in two or three of these—in other words, I don't think union disputes have got anything to do with this case.

The Court:

What is it you offer?

Mr. Harris:

The first thing I offer is Meeting with Muscoda Committee, International Union, Mine, Mill and Smelter Workers, held on February 18, 1936. Those present were Mr. Ewing Carter, Superintendent, Mr. W. C. McKenzie, Division Engineer, and Mr. M. E. Baird, General Superintendent's Clerk, and the following committee from the Muscoda Local No. 123, International Union of Mine, Mill and Smelter Workers: Mr. B. H. Barksdale, Mr. Pete Dulaney, Walter Ward, Derry Wilson and Louis McCreary. The statements of Mr. Carter and Mr. Barksdale:

"Mr. Barksdale:

We have a nice loading station in No. 6 now and I would like to get a ruling about the men staying in line when they go out to catch the skips."

"Mr. Carter:

Any man that is caught pushing will be disciplined, as men are liable to get hurt."

Mr. Burr:

I have got no objection to that at all.

The Court:

All right, let that in.

The Clerk:

Exhibit No. 25.

The Court:
Exhibit No. 25 of the Defendants.

The Clerk:
February 18, 1936. That will be Defendants' Exhibit No. 25.

(Thereupon, said minutes of February 18, 1936, Meeting with Muscoda Committee, International Union of Mine, Mill and Smelter Workers, of Tennessee Coal, Iron & Railroad Company, were identified as Defendants' Exhibit No. 25.)

Mr. Harris:
I haven't had a chance personally to examine all of these minutes and it may be I would like to have Mr. Ball, if he can take the stand for a few minutes, if the Court pleases. Mr. Ball.

The Court:
What is it you wish? You wish to introduce others?

Mr. Harris:
I have several others I want to ask him about.

Mr. Burr:
You haven't introduced the others?

Mr. Harris:
No, sir, I haven't introduced the others yet. Mr. Ball, take the stand, please.
I believe you have the Muscoda Division there. Let's see if you have that one in the minutes of December 31, 1934. Yes, here they are. I have got them.

The Court:
December 31st?

Mr. Harris:
December 31, 1934.

Mr. Burr:
What list is that you are reading from?

Mr. Harris:
I will identify it for you: Meeting with Muscoda Committee, International Union, Mine, Mill and Smelter Workers, Tennessee Coal, Iron & Railroad Company, Minutes of Meeting I am reading from, that were furnished. Those present were Mr. Ewing Carter, Superintendent, and the following committee from the Muscoda Local No. 123, International Union of Mine, Mill and Smelter Workers: Byrd Barksdale, R. B. Autrey, J. A. Mason, M. E. Adams, Bill Baylor. I offer that portion of those minutes reading as follows:

"Mr. Barksdale:
Yes. We understand you have discontinued the tally man.

"Mr. Ball:
The tally man has been abolished and the time taker will stay at the tally house. We find that we get better results by keeping the time taker outside. Each section foreman, timber foreman, track foreman, etc., will make a distribution of the men in his charge which will be a check against the time taker. This practice has been followed on surface here for a number of years and at a great many of the large mines in the country. We feel that this is an advance step in time keeping. It has been in use at Wenonah and Ishkooda for the past fifteen days and has proved very successful."

Mr. Burr:
We have no objection to that.

The Clerk:

That will be Defendants' Exhibit No. 26.

(Thereupon, said minutes of December 31, 1934, of Tennessee Coal, Iron & Railroad Company, Meeting with Muscoda Committee, International Union, Mine, Mill and Smelter Workers, were identified as Defendants' Exhibit No. 26.)

The Court:

All right. Do you want Mr. Ball?

Mr. Harris:

Yes, I would like to ask him a question or two, Judge.

3168 E. M. BALL, being recalled, and having been previously sworn, testified as follows:

Re-Cross Examination.

(By Mr. Harris):

Q. Now, Mr. Ball, do you know whether these minutes, of your own knowledge, whether they are all of them, or whether some of them are gone?

A. They are all the minutes for each local division and for the local committees and for the general committees, I submitted everything we had in our file.

Q. But weren't there some of your minutes that you filed with the Labor Board that are not here?

A. There may have been copies of them but we always keep a copy of them in our file.

Mr. Harris:

Well, now, that is the reason I want Mr. Ball up there to find them. Now, let's see that one. I don't find myself in this a meeting of January 18, 1935.

Mr. Burr:

If you don't mind, show me what you are asking about and maybe we can find it. Did you give me all you had?

Mr. Harris:

Yes, these are some photostats that I have got.

Mr. Burr:

Well, are these copies of what you gave me?

Mr. Harris:

No, no, I didn't have those, as far as I know. These are photostats that I had. I got from Washington out of Government files.

Mr. Burr:

Yes, out of a governmental file. Did you get these out of a governmental file?

Mr. Harris:

No, I didn't get them but I had them obtained. They are photostats of minutes.

Mr. Burr:

Let's see. It may be that there are some minutes introduced there that we haven't got copies of. If I can read them we probably can dispense with any trouble.

Mr. Harris:

Well, I am not bringing that up with that idea.

Mr. Burr:

Are you going to offer them?

Mr. Harris:

Yes, I am going to offer them.

Mr. Burr:

Well, go ahead and offer them and maybe my objection will cover it. I am perfectly willing for you to offer these. Here it is right here.

Mr. Harris:

Well, I see I haven't been able to check it. I wasn't taking any chances. I was offering it on the theory I haven't left anything out, because I hadn't checked it.

Mr. Burr:

We couldn't check because we didn't have these photostats.

Mr. Harris:

You didn't take any chances.

Mr. Burr:

But you had them yesterday. You have had all night to check.

The Court:

All right.

Mr. Harris:

We offer minutes of meeting with the General Committee. International Union of Mine, Mill and Smelter Workers, which is marked 47-1, held in General Superintendent E. M. Ball's office, January 18, 1935.

Mr. Burr:

January 18, 1935?

Mr. Harris:

Yes, and they are pages 1, 2 and 3 and over at the right-hand corner of page 3, signed by B. H. Barksdale for the Committee and signed by E. M. Ball.

Mr. Burr:

We think he ought to use his photostats since he has got them.

Mr. Harris:

No, you have got it and I don't have to use the photostats, if you have got the originals.

Mr. Burr:

That is our copy.

The Clerk:

Do you want that marked?

Mr. Harris:

Yes.

The Clerk:

That will be Defendants' Exhibit 27.

Mr. Burr:

We would like the photostat checked against the copy in our file.

Mr. Harris:

All right, I will check the photostat against the copy in his file during the noon hour and if there is anything wrong with it why I will indicate it to the Court.

Mr. Burr:

All right, sir, have you got any other photostats that you want to offer?

Mr. Harris:

Well, it may be we have it in here.

(Thereupon, said minutes of meeting with General Committee, International Union of Mine, Mill and Smelter

Workers, held in General Superintendent E. M. Ball's office January 18, 1935, Tennessee Coal, Iron & Railroad Company, were identified as Defendants' Exhibit 27.)

Mr. Harris:

Now, the next one that I want is minutes of Muscoda Division, held in Superintendent E. M. Ball's office on June 24, 1935.

Mr. Burr:

That is Muscoda again?

Mr. Harris:

Yes. June 24, 1935. Now, let's see if that is in here. I remember particularly those present in that meeting were Mr. E. M. Ball, General Superintendent—

Mr. Burr:

Show what you are going to offer and it will save time.

Mr. Harris:

I am going to read it to the Judge.

Mr. Burr:

Well, I have got no objection to reading it to the Judge. What is it particularly, if you don't mind?

Mr. Harris:

I am going to read that paragraph right there.

Mr. Burr:

Now, the only objection I have got to that is the same objection that I have had to all of that line of testimony. I just want to get my objection and exception to the part that he proposes to read. Your Honor will see what it is when he reads it. It is our theory that the question of ac-

cidents in the mine has got nothing to do with the case. We have had that to start with.

The Court:
Yes.

Mr. Harris:
"Mr. Ball: I believe that we talked about the Section Foremen, Timbermen and Trackmen. We should also divide the time of the Underground Carpenter who is the chute builder. We talker this matter over, Mr. Perry, Mr. Abbott and myself, after you left, as we told you we would do. They left this matter up to me, that if we could get the same results as to efficiency and safety as we are now doing, we will be willing to try it."

Then this sentence: "Our record of lost-time accidents is bad and I do not want to do anything that will make that record worse."

We offer that specifically in rebuttal of the testimony that they brought out that their lost-time accident record was good.

Mr. Burr:
Now, if Your Honor pleases, we didn't bring—it is not in rebuttal of what we did. I don't want anything in the record about admitting. What happened is, Mr. Harris, when Mr. Ball was on the stand for the first time, on cross examination, went into the conditions in the mine as to safety and I objected then and took an exception. And then, of course, when I had witnesses on the stand I yielded to Your Honor's ruling and proved evidence in reference to the matter as it exists, and by his own witnesses on cross examination. So don't let this record show that I have ever admitted, because I think it is far afield.

The Court:
All right, the record speaks for itself.

Mr. Burr:
And we except.

The Clerk:
No. 28.

(Thereupon, said minutes of Tennessee Coal, Iron & Railroad Company, meeting with Muscoda Committee, International Union of Mine, Mill and Smelter Workers, held in Superintendent E. M. Ball's office on June 24, 1935, were identified as Defendants' Exhibit 28.)

Mr. Harris:
Now, then, the next one I want is the meeting held in the General Superintendent's office, Muscoda, February 22, 1936. Now, that may be in one of the other books. I don't find it here in this book of minutes. January 27, '36, and then the next one is March 13, '36. The one I want is February 22, '36.

Mr. Burr:
You have got a photostat. Let's see your photostat. We will be glad to agree that it is.

Mr. Harris:
Well, then, if the Court pleases, during the noon hour I will hunt through their minutes further to see if I find that particular one.

Mr. Burr:
You have had them since yesterday afternoon. I don't care how much longer it takes, he can look through all he pleases.

Mr. Harris:

In other words, you don't want to help get them out?

Mr. Burr:

I am helping. He has the photostatic copies. Let him use those.

Q. Now, Mr. Ball, in 1934, there was considerable discussion between—or in the latter part of '33 or the early part of '34, or right after these unions and the various locals of the International Union of Mine, Mill and Smelter Workers were organized, they asked you for a six-hour day, didn't they?

A. If they did, I don't remember that.

Mr. Burr:

Will you let me see what you are asking about?

Mr. Harris:

Yes.

Mr. Burr:

Have you any objection to my seeing it first?

Mr. Harris:

Not at all. Had you rather see it before he looks at it?

The Court:

He doesn't have to answer until Mr. Burr looks at it.

Mr. Harris:

What I am going to do is to use a photostatic copy to refresh his recollection, is all.

Mr. Burr:

What, a photostatic copy of the Birmingham Post?

Mr. Harris:

Yes, to refresh your witness' recollection from this article on this page and over on the next page, May 20, 1934.

Mr. Burr:

We certainly object to his refreshing his recollection by the Birmingham Post. If Your Honor pleases, I have an account of this good man here in the paper, and to refresh his recollection by something that is printed in a newspaper?

The Court:

Yes, if it should aid him any, if he does not remember.

Mr. Burr:

He hasn't said that he needed any refreshing.

Mr. Harris:

Well, I am going to see if he needs to refresh his recollection.

The Court:

Cross examination.

Mr. Burr:

No, no, it is rebuttal testimony.

Mr. Harris:

I have never closed my case, if the Court pleases.

Mr. Burr:

You closed as to Mr. Ball.

Mr. Harris:

No, I stated back there I might have some questions at this time.

Mr. Burr:
We object to his refreshing his recollection from that newspaper article.

The Court:
Overruled.

Mr. Burr:
We except.

A. The article in the paper at that time, Colonel Harris, about the strike at that time, I don't remember whether I saw that or not, but I am satisfied in my own mind that the six-hour day was never mentioned in our negotiations or proposals from the committees during the three times that they asked for traveling time one way.

Q. And your recollection is not refreshed by reading this article?

Mr. Burr:
He has answered your question.

A. No, sir, there was so much in the papers about the strike that it does not refresh it.

Mr. Harris:
That is all.

The Court:
All right, are you through?

Mr. Burr:
Just a minute. At this time I would like, Your Honor, in also checking over during the recess, I would like to make a motion to produce for our examination, just as we have produced for theirs, all the photostatic copies they have, so we can check them during the recess.

Mr. Harris:

My photostatic copies are not material to him. They have testified these minutes contain all the minutes kept by the Tennessee Company from the time the union was organized or from the time we asked for the subpoena up to the present time, and I haven't offered any photostats. The only reason I was using the photostats was on the theory that some might have been left and they didn't have them. So my private documents that I have obtained as evidence in this case myself are not any records kept by my people. They are not any records kept by any union, but it is minutes that the Tennessee Company kept and they say they are here. So why should he look at any copies I have got?

Mr. Burr:

If Your Honor pleases, on motion Your Honor required us to produce all the minutes that we have, and that is what we have produced. On examination of Mr. Ball the question has been asked as to whether or not some may have been offered in evidence before the Board, of which photostatic copies have been presented, and now I say, in all fairness, what is sauce for the goose is sauce for the gander. I don't know whether it amounts to a thing in the world or not. I don't know, but we have got the same right to check what he has got in his hands against our records, and we respectfully ask that that permission be given us.

Mr. Harris:

There is a very vital difference between having a party produce records kept by the party and having a lawyer produce records that he has obtained from independent sources or otherwise. Anything that I have in my file are my personal papers, unless they were kept by a party to the suit.

The Court:
Overrule the objection.

Mr. Burr:
We except. Of course, Your Honor knows the rule says "in possession or control." It doesn't make any difference where they come from. We are excepting to the ruling.

The Court:
Yes.

Mr. Harris:
Now, yesterday I had on a witness and had up the Republic Company's book of rules.

Mr. Burr:
I have got the various rules for you.

Mr. Harris:
I would like to have the book of rules in addition to the ones I have.

Mr. Burr:
Here is our latest edition of rules.

The Court:
What is the date of it, Mr. Burr?

Mr. Burr:
I think it is '36.

Mr. Harris:
That is the same one I had. Let's see mine.

Mr. Burr:
This is the latest one we have. I think it has been revised. That is the latest rule. If you have one it is all right. You can take either one or both of them.

Mr. Harris:

Well, mine is already marked as an exhibit. So there is no use in marking theirs. So instead of marking it for identification we offer it in evidence.

The Court:

What is it?

Mr. Harris:

It is rules for prevention of accidents.

Your Honor wants to know the number? It is Defendants' Exhibit 23.

Mr. Burr:

We have no objection to the rule book.

The Court:

It is Exhibit 23?

The Clerk:

Defendants' Exhibit 23, yes, sir. It is marked for identification.

(Thereupon, said rule book of the Republic Iron & Steel Company, 1936, was admitted in evidence as Defendants' Exhibit No. 23.)

Mr. Harris:

Defendants' Exhibit 18, marked for identification, The Ore Miner, issue of May, 1939, on page 12.

Mr. Burr:

Are these new ones that you are offering?

Mr. Harris:

No, these are the ones you have checked up, I put in for identification and you have checked them and I am offering them.

Mr. Burr:
We object, separately and severally. I think the ruling has been made.

The Court:
I think the ruling has already been made.

Mr. Harris:
I stated to the Court I would want to read them at a presentable time instead of in argument. You see, they have not been read to the Court.

Mr. Burr:
All I want to know is whether I have got an exception to each one.

The Court:
Have I ruled on it?

Mr. Harris:
It is my understanding that he was to have an objection and exception when I offered them in evidence.

The Court:
Well, I thought it was something on that order.

Mr. Harris:
Yes.

The Court:
I will wait and hear you read.

Mr. Harris:
On page marked No. 12, in the May, 1939, issue, I offer this sentence:

"No smoking is allowed while riding in and out of the mine."

The Court:
Is there any objection to that?

Mr. Burr:
I object because I think it is all immaterial, illegal and irrelevant.

The Court:
Overruled.

Mr. Burr:
I think Your Honor might as well put a sign on the back of the Courthouse for me.

(Thereupon, said article in the May, 1939, issue of The Ore Miner, was admitted in evidence as Defendants' Exhibit 18.)

Mr. Harris:
Then in the issue of November, 1938, Defendants' Exhibit 17, this paragraph on page 7:

The burning of one piece of timber underground the size of a track tie may result in the death of anyone who may happen to be caught in the resulting smoke and gases; and that a fire this size may necessitate shutting down of the section of the mine through which the smoke and gases pass."

And then this paragraph immediately following:

"In several instances in the past, methane gas has been found in old workings of our mines, and that going into old workings with an open light is dangerous."

Mr. Burr:
We have a separate and several exception to each offer that he has made: incompetent, irrelevant, immaterial, il-

legal; on the ground that it amounts to nothing except a safety warning and is not accompanied by any evidence of any kind that there has ever been a single accident in those ore mines resulting from gases.

The Court:
Overruled.

Mr. Burr:
We except.

(Thereupon, said article in the November, 1938, issue of The Ore Miner was admitted in evidence as Defendants' Exhibit No. 17.)

Mr. Harris:
In the issue of July, 1939, Defendants' Exhibit 16, we offer that part of the page which has been numbered 8 in pencil, reading as follows:

Mr. Burr:
What exhibit number is this, now?

Mr. Harris:
Exhibit No. 16.

Mr. Burr:
All right, sir.

Mr. Harris:
It comes first under the title of "The Back Cover," "Unseen Dangers", account for many of our accidents in mining. They are termed "unseen dangers" because, unless a miner is constantly on the alert he may receive an injury from some one of these dangers. Actually, there are very few hazards in mining which cannot be seen and guarded against,"

And then on The Back Cover to which he refers in the article, we offer the illustrations of the magazine of the Tennessee Company.

Mr. Burr:
Just a minute. Let me see your illustrations you are talking about. Oh, "Unseen Dangers"?

Mr. Harris:
Yes.

Mr. Burr:
All right.

Mr. Harris:
Then on page—

Mr. Burr:
Now, wait a minute. We object to each sentence that he read, separately and severally, and each illustration and each part of the illustration, on the same grounds that I stated.

The Court:
Overruled.

Mr. Burr:
All right, sir, we except.

(Thereupon, said articles from the July, 1939, issue of The Ore Miner were admitted in evidence as Defendants' Exhibit No. 16.)

Mr. Harris:
Then on page 8 we offer that portion of the right-hand column of the same statement reading as follows:

"A man walking along a haulage road with a piece of steel on his shoulder does not see the electricity in the trolley cable which may kill him if the steel comes in contact with it. He knows, however, that the cable is there for the purposes of carrying electricity and he has been taught never to carry steel on his shoulders. This "unseen danger" can therefore be eliminated through making it a practice never to carry any steel or any material on the shoulders which may cause you to come in contact with the electricity in the trolley cable.

"An unseen danger in the truest sence of the word exists in all old workings. In such places there is always the hazard of an accumulation of methane gas. Anyone going into such a place with an open light is exposing himself to a danger which has taken at least one life in our mines. Never go into an old working with an open light."

Mr. Burr:

The same objections and exceptions, separately and severally to each one.

The Court:

Overruled.

(Thereupon, said articles from the July, 1939, issue of The Ore Miner, on page 8 thereof, were admitted in evidence as Defendants' Exhibit 16.)

Mr. Harris:

Then the December, 1939, issue of The Ore Miner, Defendants' Exhibit 14, on page 4, we offer the square down at the bottom and the illustration therein, that is marked —has type under it, No. 8 Mine, which reads as follows:

"While walking up manway this man attempted to step over a rail which was being dragged by a mule. The rail bounced up and struck him on the foot.

"Remedy: Never attempt to cross over material that is being moved while it is in motion."

Mr. Burr:

We want to make the same objections to that, and the special objection that we think it ought to be accompanied by a photograph of our friend Patterson who got this foot hurt by the chair falling the other day.

Mr. Harris:

Here is my idea that it is relevant, Your Honor: The testimony shows that the men in walking into the mine have to step over cables and have to go through old workings in going to it, and is a part of the surrounding circumstances accompanying their passage from the time they check in until the time they check out at night. That was why I was offering that, was an admission against the interest of the plaintiffs.

Mr. Burr:

If Your Honor pleases, it couldn't be an admission against interest to warn people to be careful. Why, that is a new way of trying cases. Anybody in the world knows that you can't have the same conditions in an underground ore mine that you have here in this Courthouse. There has been no testimony that men walk over rails or tracks that are movable. All the testimony to date was walking over tracks and rails that are immovable, and not movable.

Mr. Harris:

Another theory that I had in mind, on which I introduced some of these others, is this, that it shows supervision over the men not only in telling them up at the top where they are to go and what they are to do, but also supervising them on their way and telling them how to travel and how to get there.

The Court:
I will admit it.

Mr. Burr:
Sir?

The Court:
I say I think it is admissible.

Mr. Burr:
If Your Honor pleases, if by elasticity you have changed the question to telling people about safety conditions, it is supervision for safety, is all it is. If you are in any plant in the world, whether you are a workman or anything else, you are under supervision for safety.

The Court:
Overruled.

Mr. Burr:
We except.

Mr. Harris:
That is Exhibit No. 14. Now, on page No. 8 of that same exhibit we offer a paragraph reading as follows:

"Stolen Rides. When the shift is over and you are hoodlum bound from your working place, don't let that overwhelming desire for a ride tempt you into hopping on a trip of cars which might be going your way. In addition to being strictly against the rules of the company which, however, subjects you to the possibility of immediate discharge if you are caught, this practice is very likely to result in serious injury. There are many ways in which such injuries may happen. You may miss your footing and fall under the wheels of cars; trips may wreck; ore on loaded cars can roll back on your hands, causing serious injury.

"Any motor runner who allows anyone to steal rides on his train will be considered just as guilty as the ones stealing the rides."

Mr. Burr:
The same objection and exception.

The Court:
I just wanted to get your viewpoint why that is relevant.

Mr. Harris:
Still in the supervision of how they enter and leave, if the Court pleases. Those men, from the time they check in at the time keeper or the tally keeper or whatever you call it, until the time they pick up their check in the evening, are always under the supervision of the Tennessee Coal, Iron & Railroad Company.

The Court:
Well, I will admit it. The objection is overruled.

Mr. Burr:
Give us an exception.

(Thereupon, said articles from the December, 1939, issue of The Ore Miner, on pages numbered 4 and 8 were admitted in evidence as Defendants' Exhibit No. 14.)

Mr. Harris:
Then in The Ore Miner of January, 1939, on page numbered 7, headed, "The Duties of Drillmen," that part reading as follows:

"The drillman must go into the mine on the first man trip at the beginning of each shift and shall be the first employee to enter the working face."

That is Exhibit No. 13, and that concludes, if the Court pleases.

Mr. Burr:
We have an objection and exception to that part.

(Thereupon, said article from the January, 1939, issue of The Ore Miner, on page numbered 7, was admitted in evidence as Defendants' Exhibit No. 13.)

Mr. Harris:
Now, I have a witness. Shall I call him at this time, Your Honor?

The Court:
Yes.

Mr. Harris:
Is Mr. Anderson in the Courtroom? Come around, please.

3185 M. C. ANDERSON, being called as a witness, and being duly sworn, testified as follows:

Direct Examination.

(By Mr. Harris):
Q. What is your name, please, sir?
A. M. C. Anderson.
Q. How old are you, Mr. Anderson?
A. I am thirty-eight. I will be thirty-eight.
Q. Have you ever been connected with the International Union of Mine, Mill and Smelter Workers?
A. Yes, sir.
Q. In 1933 and '34 were you an officer of either a local union or a member of a committee?

A. Yes, sir, in 1934 and '33 I was President of the Ishkooda Local Union 153, and also the President of the Bessemer District Smelters Council, and also a member of the Committee of the Local Union, the General Committee of the three T. C. I. Locals, acted as one of the General Committeemen, and then as Chairman of the Smelters Council I worked with the committees from the other local unions from the other companies.

Q. Did you meet with the officers and representatives of the Tennessee Company, the Sloss Company or the Republic Company, or all of them, at different times in 1933 and '34 and discuss with them the hours of labor of the men in the ore mines?

A. I have with the T. C. I. at that time and also the Republic Iron & Steel Company and with the Woodward Iron Company.

Q. Well, I am not interested in the Woodward Iron Company. Now, in meeting with the officers of the Tennessee Company in 1933 and '34 what officers did you talk with?

A. Well, with C. B. Cameron at Ishkooda where it was a local union.

Q. What about a general meeting?

A. A general meeting, we would meet with the T. C. I. Company, was Mr. E. M. Ball and the superintendents from the various plants and then if it was on negotiations for hours, etc., or contractual relations it was generally we met with the president of the company, vice president of the company, manager of the industrial relations and Mr. E. M. Ball and the assistant to the president, Mr. LeMay.

Q. During 1933 or 1934 did you have conversations with them in which you or the men with you as representatives of the union asked for a six-hour day?

A. Yes, sir.

Q. Do you recall whether or not that request for a six-hour day was presented in writing, or whether it was presented orally by word of mouth?

A. It was presented in writing.

Mr. Harris:

May I have T. C. I. Exhibit No. 6?

Q. Did you get a reply from Mr. Ball or any other representative of the company when you asked for a six-hour day?

A. We had quite a discussion and argument over it and got a reply from Mr. Gregg criticizing the form that it was presented in, that it being a carbon copy that he wasn't served with an original. We just set forth the Tennessee Company in it, and this was a general proposal to cover all the council affiliates, in other words, cover all the local unions affiliated with the council.

Q. What did they say about giving you a six-hour day?

A. They couldn't do it. They said they were operating on an eight-hour day.

Q. Then after that did your committee present a paper bearing date of April 13, 1934, marked T. C. I. Exhibit 6, and having on page 2 as it is numbered there, 8: "In view of the fact that the company can force the men to enter and leave the mines at any time stated by the company, we ask the right to enter on our own time and leave on the company's time"?

A. Yes, sir.

Q. And then the 9th paragraph: "In view of the fact that the National Recovery Act was passed for the purpose of employing more men and increasing the producing power, we ask for a seven-hour day, a maximum of thirty-five hours per week, time and one-half for all overtime, double for Sundays"?

A. Yes, sir.

Mr. Burr:

Is that a Tennessee Company exhibit you are asking about?

Mr. Harris:

That is a Tennessee Company exhibit.

Mr. Burr:

Is it the one that was offered with Mr. Ball's testimony? What number is it?

Mr. Harris:

It is T. C. I. Exhibit No. 6.

Q. Is that your signature?

A. Yes, sir.

Q. M. C. Anderson, on that. Now, as to the Republic Company, did you take any part in discussions with the Republic Company during '33 and '34 about a six-hour day?

A. Yes, sir.

Q. Who did you talk to with the Republic Company?

A. Well, there was Mr. Oldham and Mr. Bransford and there was Walsh, I believe, and I am not positive, I believe Mr. Thompson was there.

Q. And then when you talked with them about the six-hour day did they make a favorable or an unfavorable reply to your request?

A. Very unfavorable.

Q. I will ask you whether or not during 1933 you took part in the filing of a complaint against the Republic Steel Corporation, Raimund Red Ore Mines Division at Bessemer, Alabama, to the Regional Labor Board?

A. I did.

Q. I have here Defendants' Exhibit 9 for identification. I will ask you to look at it, and what I am particularly calling your attention to is, "We hereby make the follow-

ing request: Six: That the men be not required to enter and leave their place of work on their own time".

A. Yes, sir.

Q. Now, that bears at the end a certificate: "This is to certify that I have this the 21st day of December, 1933, placed in the mails a true and exact copy of our complaint and request, addressed to Mr. G. H. Oldham, as Vice President In Charge of Southern Properties of the Republic Steel Corporation, Empire Building, Birmingham, Alabama. J. A. Lipscomb," signature, and then under that type, "J. A. Lipscomb, P. O. Box 210, Bessemer, Alabama."

Mr. Burr:

That is the exhibit we offered in evidence you asked about?

Mr. Harris:

No, this is my exhibit. You never offered this in evidence.

Mr. Burr:

Let me see that. Oh, this is the complaint?

Mr. Harris:

That is right.

Mr. Burr:

Well, we have got no objection if he wants to put it in evidence, the whole thing.

Mr. Harris:

We offer it in evidence and the plaintiff has no objection.

Mr. Burr:

It may be necessary for us to offer a copy of the answer and a copy of the final order in the case.

Mr. Harris:

I am not offering it on the merit of the charges. I am not interested in the merit of the charges.

The Court:

The discussion of how it would work.

Mr. Harris:

That travel time was discussed; that is all I am offering it for.

The Court:

What is that exhibit?

The Clerk:

That is Defendants' Exhibit No. 9.

Mr. All:

It would be self-serving, I think, to have yourself make the statement that something else happened.

Mr. Harris:

They don't get the point. There has been evidence, if the Court pleases, from the plaintiffs that travel time was never discussed, and here is a charge made in 1933 before the Labor Board where they were asking that the men be not required to enter and leave the mine on their own time.

Mr. Burr:

We still say it never was discussed.

(Thereupon, the document dated December 31, 1933, with the certificate attached bearing the signature of J. A. Lipscomb, testified about by the witness, was admitted in evidence as Defendants' Exhibit No. 9.)

Q. Now, then—and did you talk to Mr. Oldham, vice president of the Republic, about the six-hour day?

A. Yes, sir.

Q. And what reply did he give you?

A. He said they were working on an eight-hour day and they could not change it.

Q. What reply did he give you about paying for the time, either both way or one way, of the men going in or coming out?

A. Well, the only—through the discussion was—that it was their policy and that they were not going to change.

Mr. Harris:

All right, you may take him.

Mr. Burr:

Does Your Honor want me to start now? We will be some time on this witness. We would like to have a chance to look at these exhibits. We can come back a little earlier.

The Court:

We will come back a little earlier. Court is adjourned until 1:30.

(Thereupon, at 12:05 p. m., July 30, 1941, Court adjourned until 1:30 p. m. of that date.)

After Recess, 1:30 P. M.

The Court:

All right, Mr. Burr:

Cross Examination.

(By Mr. Burr):

Q. Mr. Anderson, are you connected with this present union at the present time?

A. As a representative of the International, yes, sir.
Q. And what is your jurisdiction and territory?
A. District No. 5.
Q. That includes what states?
A. Alabama and Tennessee, where we have local unions at the present time, but District 5 is eight states, eight southeastern states.
Q. And you have jurisdiction of all these states, do you?
A. As a representative, wherever I am ordered to go by the supervisor.
Q. But you have Alabama and Tennessee?
A. Yes, sir.
Q. Now, when was the time that you say you presented a written paper that had a six-hour demand in it to the Tennessee Company?
A. 1934.
Q. 1934, what time in 1934?
A. April, 1934, the early part of April.
Q. April of 1934?
A. Yes, sir.
Q. Where was that presented?
A. It was presented directly to Mr. Gregg's office.
Q. That is the president of the company?
A. Yes, sir.
Q. April, 1934?
A. Yes, sir.
Q. You said that that was in writing?
A. Yes, sir.
Q. Where is it? Have you a copy of it?
A. I turned my copy—
Q. I didn't ask you what you did. I asked you if you had a copy.
A. Not with me at present, no, sir.
Q. Do you know where one is?
A. I know where my copy was turned over to.
Q. Is that available at the present time?

A. I suppose Mr. A. N. Summers of the National Labor Relations Board has it in his possession. That is who I turned my copy over to.

Q. You mean you turned the copy that you had over to Mr. Summers?

A. Yes, sir.

Q. He was conducting as attorney the case against the Tennessee Company that was tried so long here at the Courthouse?

A. Yes, sir.

Mr. Burr:

Now, may I ask if a copy of that is available, Mr. Harris?

Mr. Harris:

No, sir, I haven't got it.

Mr. Burr:

A photostatic copy of it?

Mr. Harris:

No, sir, I haven't got it.

Mr. Burr:

Mr. Brodie, would you mind telling us?

Mr. Harris:

Nobody has got a copy of it. We have been trying to get it.

Mr. Burr:

May I ask at this time as to whether you have requested or been furnished with copies that the National Labor Relations Board has got?

Mr. Harris:

I couldn't answer that question. I have been trying to find it here. I couldn't answer your question at all.

Mr. Burr:

Does anybody else—

Q. Was it offered in evidence before the National Labor Relations Board?

A. I am pretty sure it was.

Q. Do you know if it was? We have got the record of that. I want to know if it was.

A. All the contracts, or proposed contracts—

Q. Answer the question.

The Court:

Just answer his questions.

Q. I just want to know if you testify if that copy that you turned over to Summers was offered in evidence in that case.

A. I believe the record would speak for itself. I couldn't be positive that I could testify as to that.

Q. What is your best recollection?

A. Well, my best recollection is that they were all introduced.

Q. Including that one?

A. Yes, sir.

Q. Now, what else was in there besides the demand for a six-hour day?

A. There was a request for a raise in wages.

Q. And what else?

A. Equal division, if I am not mistaken there was a request for an equal division of time among the employees.

Q. What else?

A. Discrimination; in other words, that some employees were working two and three days a week and some making six days a week.

Q. All right, what else?

A. There were many grievances mentioned in it, such as wages, hours and conditions of employment.

Q. How many pages was it?

A. I believe there was about four.

Q. Who signed it?

A. Well, it was signed by, as a proposed contract, by the General Committee of at least from each Local Union and possibly there might have been three, the three—President, Vice President and Secretary of the Local Union.

Q. Did you sign it?

A. I am pretty sure that I did.

Q. Now, is that the time you say you were present when you discussed it with Mr. Gregg, the President of the company and the Vice President of the company, Mr. Abbott, the Manager of Industrial Relations—that was Mr. Vance, wasn't it?

A. That is right.

Q. Mr. E. M. Ball and probably Mr. Ernest LeMay?

A. Mr. LeMay was present.

Q. How much discussion did you have about the six-hour day?

A. We had quite a bit.

Q. Anything else you discussed besides the six-hour day and the raise in wages and the unequal division in time and the complaint you made of discrimination, is that all you discussed?

A. What was embodied in the contract.

Q. I know, but do you remember anything else that you discussed besides that?

A. Practically every clause that was in the contract.

Q. What else was in the contract?

A. I couldn't give you clause by clause unless I had the contract.

Q. Do you remember anything else that was in the contract?

A. I don't remember just everything in it.

Q. Anything else, I am asking you if you remember anything.

The Court:

Tell him whether or not you remember anything else that was in the contract.

A. I don't remember, from my recollection right off.

The Court:

All right.

Q. You had a provision in there that you wanted to be paid for half of your traveling time, didn't you?

A. No, sir. In other words, just the question of the six-hour day, the six-hour day clause. There was no mention in it—

Q. Of traveling time?

A. No, there was no mention of anything about the faces where they were to work at, but just the six-hour day.

Q. Was there any mention of traveling time?

A. No, it didn't specifically state traveling time.

Q. It didn't state traveling time. Specifically or unspecifically was it mentioned other than you discussed a six-hour day?

A. Nothing was discussed but the six-hour day.

Q. Mr. Anderson, you can answer the question.

Mr. Harris:

I think he has answered him.

Mr. Burr:

Read the question.

(Question read.)

A. Well, we discussed the six-hour day for eight hours pay, of course.

Q. Mr. Anderson, please, sir, listen to my question. If you don't understand I will try to make it clear to you.

The Court:

Just answer it.

Q. In that conference that you claim that you had there in the office of the President of the Tennessee Company in 1934, was there any discussion at all of the question that the men should be paid for traveling to and from their working places?

A. I don't believe that was mentioned.

Q. All right, sir. Now, then, that was in April, 1934?

A. Yes, sir.

Q. What part of April was it in?

A. I would say it was the early part of April.

Q. You saw this morning T. C. I. Exhibit No. 6 and identified your signature?

A. Yes, sir.

Q. M. C. Anderson?

A. Yes, sir.

Q. That was presented to the Tennessee Company on April 13, 1934, wasn't it?

A. That was renewed on April 13th.

Q. Is that the paper that you said this morning that Mr. Gregg—all he said in reply to it was that he criticized it for being a carbon copy?

A. No, sir, the one I spoke of before this was shown to me was the one that was fixed up in the form of a six-hour day, and it covered not only clauses concerning the Tennessee Company but it covered all of the—it would affect all mines, and the other paper was fixed just like this one.

Q. And the paper that you say now that you turned over to Summers which had the six-hour day request

in it was also made out like this to all the companies, Woodward, Sloss, Tennessee and the Republic?

A. Yes, sir, it was made out to be presented to the companies.

Q. And you did present it to all the companies?

A. I am not positive that I presented it. I know we presented it to the Republic Iron & Steel Company, because I was one of those and I was present when it was discussed with the Tennessee Company.

The Court:

What is the date of it?

Mr. Burr:

April 13, 1934.

Q. So you claim that you turned it over to Summers, a paper that was dated some days previous to this?

A. Yes, sir.

Q. This is April 13th?

A. Yes, sir.

Q. Made out the same way with an original and carbon copy and the names of the companies filled in?

A. Yes, sir.

Mr. Harris:

I object to the phrase "you claim so and so."

Mr. Burr:

Well, "you testify that."

Mr. Harris:

Well, that is different.

Mr. Burr:

Yes, I would rather have it that way, "you testify that is a fact."

Q. And that is the one you say you turned over to Summers that you say you haven't been able to find a copy of?

A. Not that one. I turned a copy of this over to him, as well as the other copies.

Q. Well, you turned the others over?

A. Yes, sir.

Q. And you furnished a copy to Summers of this so far as the way it was written out and framed?

A. Yes, because Mr. Gregg criticized us for not handing him that.

Q. About it being a carbon copy both times?

A. Yes, sir.

Q. Now, you identified a paper here this morning with reference to the Republic Company which is Defendants' Exhibit No. 9, a charge signed by B. H. Barksdale and J. A. Lipscomb, Attorney, a complaint against the Republic Company, filed with the Regional Labor Board. Were you present at these hearings?

A. Yes, sir.

Q. Attended all of them, did you?

A. Yes, I attended that one in Atlanta. I didn't attend the one in Washington.

Q. Well, I am not talking about the one in Washington.

The Court:

Go ahead.

Q. There were two held in Atlanta. Did you attend them both?

A. I attended the first one.

Q. Did you attend the one held here?

A. Of the Republic Company?

Q. Yes.

A. No, sir.

Q. All right. The one that you attended in Atlanta, I notice in this complaint here there are some fourteen requests, and among them is that the men be not required

to enter and leave their places of work on their own time. Now, that was—let's see if it has got a date. Yes, the 21st day of December, 1933, is that right?

A. Yes, sir.

Q. Now, you say you attended the first hearing?

A. Yes, sir.

Q. I want to know if a stenographer took down that hearing, everything that was said and done?

A. That Board, that Regional Board at that time under the NRA, that is when that was filed.

Q. Sure, and they had a stenographer over there?

A. Yes, sir.

Q. Who made a record of it?

A. Yes, sir.

Q. And the union never brought up in that hearing or in any other hearing that you attended of the Republic Company at any time any further complaints or request that the men be paid for traveling time?

A. They brought up numbers of requests.

Q. I am talking about on that contract, Mr. Patterson, what I am asking you. Have you ever seen the record in that case; have you ever read it?

A. No, sir, I haven't read it.

Q. Are you willing to testify that you or anybody else presented other than this—filing that paper—ever presented any testimony or made any further request or any further statement about the traveling time in that Republic Company hearing? If anybody did I want you to tell me who it was and what he said.

A. In fact, I don't think the hearing was ever completed until the NRA was—

Q. I am talking about while you were there. I am not talking about when it was completed. I will get to that a little later. But while you were there did you ever hear any request presented about traveling time other than this matter you say was presented in the contract and testimony taken about it?

A. I don't remember that. There was a very few testified, in fact.

Q. Why, Mr. Anderson, don't you know the whole—they had a Courthouse full of witnesses who testified?

A. Yes, but a very few testified.

Q. And they took testimony this thick (indicating)?

The Court:

Well, go ahead.

Mr. Burr:

What I am trying to get at, I am trying to get the facts about this, Your Honor.

Q. Now, I want to know, whether it was broad or long, that a single solitary soul ever mentioned the question of traveling time in your hearing or presence.

A. Mentioned the request as to the complaint, yes.

Q. Mr. Anderson, you understood the question, didn't you. I want to know if anyone said a word in the hearing, on the stand or the presentation of your attorney, Mr. Lipscomb, before that board at any time that you were there in which the question of the men being paid for any part of the traveling time was brought up, and if it was I want you to tell me who brought it up and what was said about it.

A. My best recollection it was brought up in this manner that the men, from the unloading stations to the places of work, they had so far to walk, and the time that they had to get there and go back into the places, and that was their reason for making the request.

Q. Do you testify that that was brought up that way in that hearing from the time it started in December?

A. That is my recollection.

Q. Who brought it up?

A. Well, it was brought to the Board's attention by the attorneys.

Q. Mr. Lipscomb here?

A. And they had witnesses. They had witnesses there to substantiate it.

Q. And you testify here on oath—

A. It is my best recollection. I didn't testify there, no.

Q. I am talking about now. You testify that you sat there in that Courtroom and heard somebody examined over there in reference to the time it took them to walk to the working place and things of that sort, concerning traveling time?

A. I couldn't swear that, but I know that it was brought to the attention of the Board by the attorneys through the arguments, etc.

Q. Will you swear that an attorney brought it to the attention of that Board in that hearing, and if you do I want you to take time off to read the statements of the attorneys; Do you testify that?

A. I would say that they brought it in the complaint.

The Court:
He says so.

Q. Do you swear that?

The Court:
He says so.

Q. Do you swear that?

A. Our attorney, Lipscomb, and Gooch.

Q. Your attorney, Lipscomb, and Gooch?

A. George Gooch was there.

Q. Which one of them talked about the traveling time?

A. They discussed the complaint in general.

Q. I am not talking about in general, Mr. Anderson.

A. All of that was taken into it, Mr. Burr. I couldn't specifically set out anything that Mr. Lipscomb said.

Mr. Harris:
Judge, if he has got a copy of it—

Mr. Burr:
I am cross examining the witness.

The Court:
Overruled, along that line.

Mr. Burr:
If Your Honor pleases, the law allows me to cross examine a witness and get his statement as to what he bases his testimony on. I asked him about a hearing.

The Court:
Well, I am allowing you to go on. He said that was his best recollection as to what was said.

Q. Well, who said that?

Mr. Harris:
He has answered that. He said Mr. Lipscomb or Mr. Gooch.

The Court:
He said Mr. Lipscomb or Mr. Gooch.

Q. All right, sir, I want you to tell me yes or no, do you testify that Mr. Jim Lipscomb sitting right there, in a hearing of that Republic case from the time it started in December, 1933, until it ended in April of 1934, ever opened his mouth or said a word?

A. I can't say anything about anything except the testimony here.

Q. All right, in that hearing will you testify that he opened his mouth or said a word about travel time or distances in a mine?

A. I am pretty sure he discussed it.
Q. Answer that, Mr. Anderson, please.

Mr. Harris:
I think he has tried to, may it please the Court.

The Court:
Is that your best recollection?

The Witness:
Yes, sir.

Q. That he did?
A Yes, sir, that he discussed the complaint in general.
Q. I didn't say a word about discussing the complaint, but do you say your best recollection is that he testified about the traveling time?
A. I don't say he testified.
Q. Did he state anything about it?
A. Yes, sir, brought it to the Board's attention.
Q. Are you under sentence right now, on appeal, from some sort of conviction?
A. Yes, sir.
Q. You are? What sort of a conviction are you under?

Mr. Smith:
We object.

The Court:
Has he been finally criminiated?

Mr. Burt:
That is what I want to find out.

Q. Have you got an appeal pending, or not?
A. Yes, sir.

The Court:
Sustain the objection.

Mr. Burr:
All right, sir, we except. That is all I want to ask him.

Mr. Harris:
That is all, Mr. Anderson. Now, if the Court pleases, we offer in evidence Defendants' Exhibit No. 10 for identification—it has already been introduced—the affidavit of Mr. Norman E. Thompson of the Republic Company. This affidavit has already been identified by him and his signature, and we offer it for purposes of impeachment, that part reading as follows:

"Beginning on June 7, 1935, the Committee representing the Brotherhood of Mine Workers of Captive Mines began to present from time to time their requests for new contracts and for some other changes in working conditions. At no time did this Union ever present the claim that going to and from their working place should be on company time. The same letters of understanding and of continuing the existing policy which was sent to the Union were also sent to the Brotherhood."

We offer the entire affidavit.

Mr. Burr:
We have no objections to that.

The Court:
That is Exhibit 10 of Defendants?

The Clerk:
Yes, sir, that is right.

(Thereupon, said affidavit of Norman E. Thompson was admitted in evidence as Defendants' Exhibit 10.)

Mr. Harris:
In the minutes furnished us by the Tennessee Coal, Iron & Railroad Company, we offer from the minutes of the Muscoda Division, January 17, 1936, the statement by Mr. Ball.

Mr. Burr:
Just a minute, Mr. Harris. Let me get that. What minute is that, now?

Mr. Harris:
January 17, 1936.

Mr. Burr:
Muscoda, did you say?

Mr. Harris:
Muscoda Division.

Mr. Burr:
Thank you, sir.

Mr. Harris:
Statement by Mr. Ball: "There is another matter I want to mention to this Committee: For several days a number of men have been late reporting to the mines. We pay a day's wage for a day's work and we expect the day's work. Whenever a man comes to the mine late, dragging along and encourages others to be late he is setting a bad example. I want this understood thoroughly —men must be on time; we don't care whether they work here or not, but if they want to work here they will have to be on time or else they will be disciplined, even to discharge."

Mr. Burr:
No objection to that.

The Clerk:
Let me mark that, Mr. Harris. That will be Exhibit 29.

(Thereupon, said minutes of Tennessee Coal, Iron & Railroad Company, Muscoda Division, held in General Superintendent E. M. Ball's office January 17, 1936, were identified as Defendants' Exhibit 29.)

Mr. Harris:
Now, I was furnished by—a young man from my office went over to your office yesterday and you gave us—he brought back five of these.

Mr. Burr:
That is all I could find.

Mr. Harris:
And I do not find any minutes whatsoever from these title pages dealing with the Ishkooda Division at all.

Mr. Burr:
It is already in evidence. That was offered by us way back yonder.

Mr. Harris:
The whole book?

Mr. Burr:
Yes, the pages from it. We are going to offer the whole book.

Mr. Harris:
Have you got your mark on it so you can put your hand on it?

Mr. Burr:

Here are T. C. I. Exhibits here.

Mr. Harris:

That is all right, if you have already got it in. I tried to check during the noon hour as many as I could.

Mr. Burr:

It was offered when Mr. Patterson was on.

Mr. Harris:

If the Court pleases, I believe, for myself and my clients, that is, the unions and the members of the unions affiliated with the CIO, that finishes with the evidence except that I do not believe we have yet received all the evidence required by the subpoena. I think we asked for some statistics, I believe.

Mr. Burr:

We offered you all of that before dinner.

Mr. Harris:

No, you offered me copies.

Mr. Burr:

No, you said you had production records there and you said you would get it later. They are there for you.

Mr. Harris:

Your Honor, may I have a few seconds to examine these so I can see if I want to put them in tomorrow morning?

The Court:

Yes, you may. You mean tomorrow morning?

Mr. Harris:

At tomorrow morning's hearing. In other words, I don't know whether we are going right on.

Mr. Burr:
Well, Your Honor is going to give us a recess before rebuttal.

Mr. Harris:
Well, you don't need any recess on that. There is no rebuttal on that. Then I will know by tomorrow morning whether I want to put them in or not.

The Court:
All right.

Mr. Harris:
Then I had as well move out of this front seat. I have finished my part of it.

The Court:
Are you all through?

Mr. Cooper:
If the Court pleases, as I stated yesterday, we are through with the evidence we wish to put on with the exception that we may wish to introduce some answers to interrogatories that we filed, after we have a chance to see the matter which came under the subpoena, and I guess we will see them this afternoon. Mr. Burr says they are here now. We will be ready tomorrow morning. Of course, it will take a very short time to put that in.

The Court:
All right.

Mr. Burr:
Of course, we don't want to go ahead until they finish their case. We don't want to go ahead until they put on all of their evidence, but we will be ready tomorrow morning.

The Court:

You are not ready now?

Mr. Burr:

No, sir. Your Honor told us you would give us two or three hours to get our rebuttal ready.

The Court:

Yes, I will do that. Now, as I understand it, the defendants, all the defendants, want time to examine the items they have requested in the subpoena duces tecum, and the plaintiffs in the case have requested time out to examine certain documents of the defendants.

Mr. Burr:

That is right.

The Court:

Now, the plaintiffs say that they are not ready to proceed until the defendants have closed. How long will it take? Suppose we adjourn now and let you gentlemen make your examination of these items that have been brought in. How long will it take you, do you think, if we just adjourn until you do that?

Mr. Harris:

Well, I don't know how much he has got there, but it won't take me more than five minutes to introduce it or not to introduce it.

The Court:

But you want time to see it?

Mr. Harris:

Yes, sir, I want time to see it. I have no idea what it is until I study them, but when I finish with the examination I won't take five minutes.

The Court:
The question is, it will take more time to examine it?

Mr. Harris:
That is right.

The Court:
And you can't tell, of course, how long?

Mr. Harris:
No, sir, I cannot. I don't know what he has got.

The Court:
But my recollection is that the defendants and the interveners requested about the same documents or items.

Mr. Harris:
They have, yes, sir. And then I want to call Your Honor's attention to this fact also, that when the plaintiffs had finished with their case we asked for no indulgence at all, but immediately started right on with our case and have plowed right on through.

The Court:
I will give you the time.

Mr. Harris:
Now, the plaintiffs have asked for two or three hours to see and check documents, everything, to see whether they want to put on anything in rebuttal.

The Court:
Well, I am going to grant both sides time that you have requested.

Mr. Harris:
Well, I think while they are doing that this afternoon we can check their documents and if I want to put them

on I can put them on, so it won't take but four or five minutes from my point of view.

The Court:
Will it take you about the same?

Mr. Cooper:
I think it will take us at least an hour and a half to go over these records, Judge. We can't tell how many they have.

The Court:
What was it you wanted to examine, Mr. Burr?

Mr. Burr:
The main thing I wanted to do, Your Honor, we haven't had a chance to do at all, was to examine the exhibits and I wanted to go back and check to see what I wanted to put on in rebuttal. I have been as far as I could.

The Court:
Well, can't each of you do the same thing you wanted to do at the same time?

Mr. Burr:
Yes, sir, that is what we will try to do.

The Court:
And the question is whether we will adjourn until tomorrow morning or not.

Mr. Burr:
I think that is the sensible thing to do.

Mr. Cooper:
We can certainly be ready by tomorrow morning. It will take not more than fifteen or twenty minutes.

Mr. Burr:

There is one other matter here, Your Honor, I want to go into at this time. I called Mr. Harris' attention to it on yesterday. I gave him a copy of a letter. When this order was made to produce minutes, communications and proposals why I had another search made of our records and found in Mr. Gregg's file one letter which was dated August 9, 1933, signed by The Bessemer District Smelters Council, C. L. Pegues, Secretary, and I want to offer it along with the other.

Mr. Harris:

I see no materiality of the letter to any of the issues, and, in order not to clutter up the record or waste the time of the Court, I object to it.

The Court:

I overrule the objection.

The Clerk:

Do you want to mark that as T. C. I. or Plaintiffs'?

Mr. Burr:

T. C. I.

Mr. Burr:

Would our Honor like to have that read?

The Court:

I would like to have that read.

Mr. Burr:

"Bessemer, Alabama, August 9, 1933. Tennessee Coal, Iron & Railroad Company, Birmingham, Alabama, Woodward Iron Company, Woodward, Alabama, Republic Steel Corporation, Birmingham, Alabama, Sloss-Sheffield Steel & Iron Company, Birmingham, Alabama.

"Gentlemen: In order to support our President in his efforts to restore the Nation's prosperity and reduce unemployment, we believe the hours of labor in industry should be reduced to a maximum of 35 hours per week, and that the minimum weekly pay should be $14.50 for common labor as provided by the Blanket Code approved by President Roosevelt.

"The Bessemer District Smelters Council of the International Union of Mine, Mill and Smelter Workers, affiliated to the American Federation of Labor, and composed of a representative number of your employees in mines and plants, pledge our patriotic support and cooperation in carrying out in every way possible the spirit, purpose and intent of the National Recovery Act. Therefore, through our chosen representatives, we are available to meet with you for the purpose of discussing wages, hours and other conditions promulgated under the President's Blanket Code in order that more men may be put to work as early as possible.

"We hope this will receive your immediate attention and careful consideration.

THE BESSEMER DISTRICT
SMELTERS COUNCIL,
(Signed) C. L. PEGUES,
Secretary.

Copies to—
Franklin D. Roosevelt,
President of the United States.

Hugh S. Johnson,
Administrator, Industrial Recovery Act.

William Green,
President, American Federation of Labor.

Plant & Mine Superintendents of respective Companies. International Union of Mine, Mill & Smelter Workers."

The Court:
That was in August, 1933?

Mr. Burr:
Yes, sir, that is the first written communication that we had.

The Court:
What exhibit is that?

The Clerk:
No. 32.

Mr. Burr:
In point of time that is the first one.

(Thereupon, said letter of August 9, 1933, from The Bessemer District Smelters Council, to Tennessee Coal, Iron & Railroad Company and others, was admitted in evidence as T. C. I. Exhibit No. 32.)

The Court:
Did you gentlemen prepare the orders for me to sign that I suggested Monday morning?

Mr. Harris:
Yes, sir, they are prepared. Yes, I have them, Judge. I would like the clerk to check the numbers that you made of the notations.

The Court:
I want that to be done.

Mr. Burr:
We insist that in the order it show our exceptions to each ruling.

Mr. Cooper:
I don't understand that is necessary. I haven't that noted.

The Court:
It is not necessary, Mr. Burr, under the new rule, to give you an exception.

Mr. Burr:
I want it in there.

The Court:
I can put it in there, "to which the plaintiffs except."

Mr. Burr:
That is right.

Mr. Harris:
You can interline it.

The Court:
You can just interline it, "to which the plaintiffs except."

Mr. Harris:
For that blank, I will get with Mr. Wheeler, Your Honor, and find out the exact time they went in these mines. I want that in the schedule in the other order.

The Court:
I wish you would. Shall we meet tomorrow morning at 9:00 or 9:30?

Mr. Smith:
9:30.

The Court:
What about that, Mr. Harris?

Mr. Harris:
So far as I am concerned, 9:00 o'clock is all right with me.

The Court:
How about you, Mr. Burr?

Mr. Burr:
Judge, I have mighty near given out.

The Court:
Well, I will make it 9:30. Court is adjourned until tomorrow morning at 9:30.)

(Thereupon, at 2:07 p. m. July 30, 1941, Court adjourned to 9:30 a. m. July 31, 1941.)

July 31, 1941, 9:30 A. M.

Court met Pursuant to Adjournment.

Mr. Harris:
If the Court pleases, there was an order entered in which by agreement we were to fill out the schedule, and I have the schedule there. I have shown it to the other side. There wasn't room to get it in.

The Court:
It was for that day?

Mr. Harris:
Yes, sir.

The Court:
All right, present it.

Mr. Harris:

This is that schedule we have worked on that we filled in. By agreement it was filled in there.

Mr. Burr:

That is all right.

Mr. Harris:

Now, we have some maps that we were furnished yesterday, some of which I want to introduce. This one, as I understand it, was already in evidence, Republic Exhibit No. 1, and you merely added some things to that.

Mr. Burr:

Added the ventilation system.

The Court:

Yes.

Mr. Harris:

So we don't have to reintroduce that, if the Court pleases.

The Court:

Now, let's see that. That is already in.

Mr. Harris:

That is already in there. Wouthout reintroducing that we will just count that in. Now, these are apparently new ones that you gave me.

Mr. Burr:

Yes. I couldn't read one of them if you asked me to, probably. Now, if there is anything you want to know about them, Mr. Ball could probably tell you, or Mr. Guyton over there could tell you. The maps were made to show the things they asked about, ventilation, etc.

Mr. Harris:
I think they are self-explanatory. If Mr. Ball feels they need any explanation he can get up here, but they look clear enough to me.

Mr. Ball:
With the lines filled in.

Mr. Burr:
Your Honor will note an exception to all of this evidence for us on the same grounds that we have been objecting. We don't think it has got anything to do with the issues of this case, the ventilation and things of that sort.

The Court:
All right, that is understood.

Mr. Burr:
That is true of each and all of these exhibits he is offering this morning.

Mr. Harris:
This is the Ishkooda iron mine. Suppose you just give that the next number.

The Clerk:
That will be Exhibit No. 30, Defendants'.

(Thereupon said map of the Ishkooda iron mines of the Tennessee Coal, Iron & Railroad Company was admitted in evidence as Defendants' Exhibit No. 30.)

Mr. Harris:
The next is the Wenonah Ore Mines.

The Clerk:
That will be Defendants' Exhibit No. 31.

(Thereupon, said map of the Wenonah Ore Mines of the Tennessee Coal, Iron & Railroad Company was admitted in evidence as Defendants' Exhibit No. 31.)

Mr. Harris:
The next is the Muscoda Iron Mines.

The Clerk:
That will be No. 32, for the Defendants.

(Thereupon, said map of the Muscoda Iron Mines of the Tennessee Coal, Iron & Railroad Company was admitted in evidence as Defendants' Exhibit No. 32.)

Mr. Harris:
I think these are the ventilation maps you had in mind, Mr. Burr. I am going to offer them now.

Mr. Burr:
Well, I have got an exception to all of them.

The Court:
It is understood that you object and have an exception to the rulings.

Mr. Burr:
Yes.

Mr. Harris:
Now, the next is Ishkooda Iron Mine, with the legend, Fresh Air and Exhaust Fan.

The Clerk:
That will be Defendants' No. 33.

(Thereupon, said map of Ishkooda Iron Mine with the legend, Fresh Air and Exhaust Fan, was admitted in evidence as Defendants' Exhibit No. 33.)

Mr. Harris:

The next is the Wenonah Iron Mine, with the legend, Fresh Air, Exhaust Air and Exhaust Fan.

The Clerk:

No. 34.

(Thereupon, said map of Wenonah Iron Mine, with the legend, Fresh Air, Exhaust Air and Exhaust Fan, was admitted in evidence as Defendants' Exhibit No. 34.)

Mr. Harris:

And the next is the map of the Muscoda Iron Mine, with the legend, Fresh Air, Exhaust Air, Overcast Booster Fan.

The Clerk:

That will be Defendants' Exhibit No. 35.

(Thereupon said map of Muscoda Iron Mine, with the legend, Fresh Air, Exhaust Air, Overcast Booster Fan, was admitted in evidence as Defendants' Exhibit No. 35.)

Mr. Harris:

That is all I have at this time, Your Honor.

The Court:

All of the defendants' exhibits. The defendants all rest, and the intervener.

Mr. Burr:

Well, there is the cross examination of Mr. Wheeler. I wanted to ask him a few questions this morning.

The Court:

Well, didn't we finish with him?

Mr. Burr:

No, sir. Your Honor will remember we reserved cross examination until I could look at these pictures.

The Court:

All right.

Mr. Burr:

Come around, Mr. Wheeler.

The Court:

Come around.

Defendants and Intervener rest.

3219 GEORGE S. WHEELER, being recalled, and having been previously sworn, testified as follows:

Cross Examination.

(By Mr. Burr):

Q. Mr. Wheeler, I am handing you the photographs that you identified. They run to No. 43. I wish you would keep them in order, so if I get to taking them out I will scatter them all over the place, and take them out as I call for a particular photograph, will you let me have it, please, sir. I would like to have No. 41 first.

A. Yes, sir.

Q. Let me have it, please, sir.

Q. Who was the photographer that took these pictures, Mr. Wheeler?

A. They were taken under my supervision. Mr. Rogers was the man holding the camera and snapping the pictures.

Q. I see. Who is Mr. Rogers?

A. He is an industrial hygienist man.

Q. Industrial what?

A. Hygienist; for instance, engineer in the civil service classification.

Q. What department does he work for?

A. Department of Labor.

Q. With the Department of Labor. Now, I understand you went through these mines in accordance with the order made by the Court which directed the plaintiffs to allow you to inspect these mines?

A. Yes.

Mr. Burr:

Will you let me have that order? You had it this morning.

Q. Now, the order says the two representatives to be selected by the said Philip B. Fleming be permitted to enter the mines. Were you one of those two?

A. Yes, sir.

Q. And Mr. Rogers was the other?

A. Yes, sir.

Q. And Mr. Rogers actually took the pictures?

A. That is correct.

Q. You say he was under your supervision on this inspection?

A. Well, he took the pictures as the points were decided and I made the notations which would identify the picture at the time.

Q. You selected the places where you wanted the pictures taken?

A. Well, sometimes I did and on a few occasions the company officials did.

Q. Could you tell me any one occasion where a picture was taken where anybody from the company selected a place?

A. Yes.

Q. I would like for you to tell me which pictures they were.

A. In Intervener's Exhibit 10.

Q. All right, sir, what is shown, please, sir, while you have got it before you?

A. It is a haulage way.

Q. A haulage way where?

A. At No. 4 mine of the T. C. I.

Q. What haulage way was it?

A. That is No. 2 haulage.

Q. All right, sir. Any other that you took at their request?

A. Not at their request. We just agreed that those were—

Q. Well, you told me some were taken at their request. I am asking you to give me those. You say No. 10 was one. I want you to give me the other.

Mr. Harris:

I don't think he used the word "request." He used the word "selected", as I recall.

Q. Well, your man had the camera, didn't he? What I want you to give me is the names of any places—I don't care whether you call it request or what you call it—where you had your camera man to take pictures at the suggestion or request of any representatives or any members of the company.

A. I am not positive whether this one marked Intervener's Exhibit 15.

Q. Well, if you are not positive about it—

A. I would prefer not to say.

Q. Don't you have your notes; don't your notes show everything that took place in there?

A. The note is not made in our conversation. We were talking all the time.

Q. Well, you read your notes the other day. You just put down in the notes what you thought was important?

A. To identify the pictures here.

Q. Is that all you put in your notes?

A. Yes, sir.

Q. Have you got your notes with you?

A. Yes, sir.

Q. Now, this order—I believe you furnished the information upon which this sheet was put in here this morning. When you went in Sloss-Sheffield red ore mine No. 2 under this order you were accompanied by T. E. Costner, J. W. Russell and a photographer named A. C. Keily; do you remember them?

A. Yes, sir.

Q. And then representing—

A. That was the company photographer. I am not positive of any relationship there.

Q. He was the photographer the company took down there with them?

A. Yes, sir.

Q. Now, representing the C. I. O. was Mr. John Hill, as you know?

A. Yes, sir.

Q. And representing the Government was George S. Wheeler, Senior Economist—that is you, I believe?

A. Yes, sir.

Q. And J. S. Rogers, Industrial Hygienist?

A. That is right.

Q. Do you recall when we first had this matter up you were here at the time and you requested that two engineers be allowed to go and an economist?

A. I do not recall any such request, no, sir.

Q. You don't recall anything like it. Well, is Mr. Rogers the only engineer the Government had down here since this case started?

A. So far as I know, the only one they were speaking of with reference to this request.

Q. How about Mr. Reid, didn't you have him here?

A. For a short while, yes.

Q. And sent him back?

A. I don't know anything about that.

Q. Did you meet in conference with Mr. Reid and Mr. Rogers with reference to this matter before your inspection started?

A. No, sir.

Q. Who is Mr. Reid?

A. I don't know.

Q. Was he introduced to you?

A. He was introduced to me. I think—well, I would rather not say because I just met him casually on one occasion.

Q. Well, didn't they tell you who he was when they introduced you to him?

A. Do you want me to give what I believe? I believe—

Q. He was introduced to you?

A. Yes. I only—

Mr. Cooper:

We object to this line of questioning about someone named Reid who is not identified with this business.

Mr. Burr:

I am trying to identify him now.

Mr. Cooper:

He doesn't appear on that order which designates the men who went through the mine.

Mr. Burr:

No, his name is not on the order. I want to show why it is not here.

The Court:

Sustain the objection.

Mr. Burr:
Your Honor sustains the objection?

The Court:
Yes.

Mr. Burr:
We except and offer to prove that Mr. Reid was here and conferred with Mr. Wheeler and Mr. Rogers, and that he is an engineer, not only an industrial engineer but a mining engineer of national standing.

The Court:
Well, he wasn't in the order.

Mr. Burr:
No, sir, he wasn't in the order. They decided they didn't want him in there, and we want to prove that, after they talked to him.

Q. Now, representing the T. C. I. at Muscoda Mine No. 4 Mr. Guyton, Mr. McKenzie and Mr. Mitchell, and Mr. Parsons and Mr. Alexander and Pete Dulaney representing the C. I. O. and Arthur Praytor representing the American Federation of Labor, were in that party, isn't that right?

A. It wasn't made up solely by—I also talked to Mr. Ball.

Q. I don't care who you talked to. I just want to get the people identified. The same parties representing the Government, you and Mr. Rogers, were there all during the inspection, so I need not repeat them. And there were the Tennessee Company men, Mr. Guyton and Mr. McKenzie and Mr. Mitchell?

A. Yes, sir.

Q. Did they go through all the Tennessee Company's mines with you?

A. Yes, sir.

Q. And accompanied by some mine foremen on that particular trip?

A. Yes, sir.

Q. And Mr. Alexander, photographer.

A. Yes, sir.

Q. Now, at the Republic Steel Corporation Mr. Jones over there went with you through Raimund?

A. Yes, sir.

Q. And representing the employees in that mine was John Butler of the T. C. I.?

A. Yes, sir.

Q. And representing the employees at Wenonah No. 8 was William Campbell of the C. I. O. and No. 6 was Robert Mullins of the C. I. O., and Muscoda No. 4, Pete Dulaney of the C. I. O. and Arthur Praytor of the A. F. of L. Now, this order also authorized you to take dust counts. Did you take any dust counts?

A. Yes, in Muscoda No. 8—Pardon me, Wenonah.

Q. At Wenonah you took dust counts. Who took the dust counts?

A. Mr. Rogers.

Q. Is Mr. Rogers here?

A. No, I don't think so.

Q. When did he leave, do you know?

A. I believe about July 18th.

Q. All right, sir. Now, you told me that No. 10 is the only one of those exhibits that you can identify positively as having been taken at the request or suggestion of the company representatives. Now, the others, you selected the places for the others to be taken after conference with Mr. Dulaney or whoever you happened to have with you representing the C. I. O. or the other union, is that right?

A. Well, I picked them out as representative of conditions in the mine.

Q. You didn't go all over the mine, did you?

A. I went through quite a bit of the mine.

Q. Is that the first time you had ever been in an ore mine in Alabama?

A. Ore mine, yes.

Q. Sir?

A. Yes, in Alabama.

Q. The first time you had ever been in an ore mine anywhere?

A. I think it is.

Q. Don't you know whether it is? What is the use to think about a thing like that?

The Court:

Don't argue with the witness.

Mr. Burr:

I am not arguing with the witness.

The Court:

Well, treat him respectfully, Mr. Burr.

Mr. Burr:

Well, I think I am treating him respectfully.

The Court:

I don't think so.

Mr. Burr:

Well, I disagree with Your Honor. That is all I can do, I am entitled to as much consideration as the witness.

The Court:

All right, sir, I have ruled and I don't want any more from you.

Mr. Burr:
Read the question.

(Question read: Q. The first time you had ever been in an ore mine anywhere?)

Q. That is my question. Don't you know it?

The Court:
Have you ever been in other ore mines?

The Witness:
I think I said yes.

Q. I didn't understand your answer.
A. Yes.
Q. Have you ever been in any other mine of any kind other than these mines? Underground mine?
A. Yes.
Q. Whereabouts?

Mr. Harris:
I don't see the materiality of that, if the Court pleases.

The Court:
I don't either.

A. In Indiana.
Q. What sort of mine?
A. Coal mine.
Q. How many mines?

Mr. Harris:
May I have an objection to any question about coal mines?

The Court:

I sustain the objection.

Mr. Burr:

All right, sir, we except and offer to show the conditions in the coal mine by this witness.

Q. That is the only other mine, without going into detail, any underground mine that you have been in other than the visits you made out there to these mines?

A. Yes.

Q. That is right. Well, now, as a matter of fact, how did you go about selecting the typical places in the mines? You say you selected the typical places.

A. Well, do you want me to start from the beginning?

Q. No, just how you selected the typical places. That is all I want to know.

A. We selected the typical walkways only.

Q. That is, you didn't take pictures of all the places in the mines?

A. Only the places where the employees were walking to and from the face and from the portal.

Q. How did you select the typical walkways?

A. I didn't select typical walkways in the sense that you just asked in your question. We just asked in each mine where the men ordinarily walked to and from work. We didn't want one that didn't. And then we would start in and I would select some place that I thought might give the different scenes in the mine and I would take the picture.

Q. And you would decide to take the picture?

A. Yes, sir.

Q. Would you consult anybody where to take it?

A. Sometimes I would consult—well, I would consult everybody before I finished taking the picture, both company representatives and the union. I wanted to make sure that this was a regularly used walkway.

Q. I understand that, but would you determine what part of the walkway to take a picture of?

A. Just my own—

Q. Judgment?

A. Judgment.

Q. Well, now, referring here to 41. I believe it is 41. That is a picture that you took that you described the water as being up above the top of the cars?

A. No, I didn't say above the cars.

Q. I don't mean above the cars; the car wheels is the way you describe it.

A. I said about half way up.

Q. The car wheels?

A. Yes, sir.

Q. Now, with reference to that picture, you took that because you saw water there, didn't you?

A. Why, yes.

Q. And you talked with Mr. Jones there, didn't you, about that water?

A. Yes.

Q. And he told you, didn't he, that that water there had been brought about by a broken pipe which had broken a day or two before or the day before it had broken and they were pumping it out at the time?

A. I got two completely different stories about that water.

Q. I didn't ask you if you got two completely different stories about that water. Did Mr. Jones tell you that at that point?

A. Not at that point, I don't believe.

Q. I want you to be certain about it, Mr. Wheeler.

A. There was a broken pipe up that same manway and haulway.

Q. Mr. Wheeler, just a minute, please, sir. Answer the question, please, sir.

A. Would you repeat it?

Q. Yes. I asked you if Mr. Jones told you, or if Mr. Wesson told you, if both of them didn't tell you at the time you took that picture that that was ordinarily a dry place and that this water was in there by a pipe that had broken and that they were fixing to pump it out at that time.

A. No, the break in the pipe—the water was flowing the other way. They didn't say in regard to this place that the water was caused by a break in the pipe.

Q. What place did they say the water was caused by a pipe breaking?

A. Further down the hill.

Q. Well, show a picture of it.

A. I don't have the picture.

Q. You testify—I want to be certain I understand you—that they didn't tell you that that water at that place was being caused by a broken pipe?

The Court:

He has answered it.

Mr. Burr:

No, I don't think he has, Your Honor.

The Court:

Read the answer.

Q. Neither one of them told you anything of that sort?

A. Not that I recollect.

Q. Let me see your notes in reference to that, what you put down there.

A. I will read it. "Water has been on track at least two years, according to L. P. Templeton, track and timber foreman."

Q. Who told you that?

A. Mr. L. P. Templeton, track and timber foreman.

Q. Was he a party?

A. I met him.

Q. Was he a party, on this party that went down there with you?

A. I met him at the portal of the mine on the way out.

Q. What did you ask him?

A. He just asked me if I saw the water that the men had to climb past in 101 haulway, and I identified the stope, and I said, "Yes."

Q. Now, wait a minute. You were coming out of the mine?

A. Yes.

Q. Did you know Mr. Templeton at the time?

A. I did not know Mr. Templeton.

Q. Did he come up and have a conversation with you?

A. We had to wait for a car about half way and in the course of sitting on the steps there he came by and started to talking to Mr. Butler. He was introduced to us and just asked this question about whether we had this picture of this place in that manway.

Q. You identified the place from his conversation there at the portal?

A. No, no, I had previously identified it and then I asked him if he meant this 101 left haulway, 21 stope, and he said "Yes."

Q. Did you have your notebook then?

A. Yes. I made that footnote and that star.

Q. While you were sitting there?

A. That asterisk, while I was sitting there and then added this note back there.

Q. I see. Now, you said you had two stories about that. Where did you get the other one?

A. Mr. Jones didn't—I am not positive at all that he said this was caused by that break in the pipe which we discussed previously on another slope and grade where

the water was flowing out directly, but in my best recollection I did get the impression from the company men that this was a temporary condition.

Q. Which?

A. The water.

Q. Now, who did you get that from?

A. It must have been from Mr. Jones and Mr. Wesson.

Q. The ones that went there with you?

A. Yes, sir.

Q. Did you talk with them out there?

A. Yes, sir.

Q. And you asked them whether the water was temporary or permanent?

A. I believe they volunteered that.

Q. Volunteered it, and they told you it was temporary?

A. I am not positive of that, but I got the impression.

Q. Well, according to your recollection, you said in the beginning, that you got two stories.

A. Mr. Butler said it was five years that it had been there.

Q. I didn't ask you about Mr. Butler. You are not interested at all in this, are you?

A. No, sir, but you did ask me what the two impressions were.

Q. No, sir, I said officers or representatives of the company are what I am asking you about. Now, you say Mr. Wesson and Mr. Jones both told you it was a temporary condition while you were down there looking at it?

A. I wouldn't swear to that.

Q. Is that your best recollection?

A. But I got the impression from them. It may have been in another spot.

Q. Well, when you went to take a picture of a big pool of water didn't you ask the people that were with you whether it was a temporary condition? Did you ask Mr. Butler?

A. I know they didn't make any positive statement about how long it had been there.

Q. Well, what did they tell you, Mr. Wesson and Mr. Jones?

A. If they said anything definite about how long it was there, that it was aggravated by this pipe breaking, or temporary, or something to that effect.

Q. Did you put that down on your notebook?

A. I don't know whether I did or not.

Q. See if you did, while you were down there looking at the place.

A. No, I don't believe I did.

Q. I don't want you to believe. I want you to look and tell me whether you did or not.

A. No, I don't see anything on there.

Q. So the only thing on your note about this thing is after you got up to the portal Mr. Templeton came up and asked you the question?

A. I did not put anything down about the conversation at the time.

Q. But you put that down when Mr. Templeton told you that?

A. Yes. It is there.

Q. Yes, and the other is not there, is it?

A. No.

Q. All right, sir. Now, I want you, please, sir, next to turn to Exhibit No. 32, which purports to be a picture of No. 1 slope, left manway, after leaving the hoodlum, and get out 33 too, please, sir.

A. Is that 32 that you want?

Q. 32 and 33.

A. Yes.

Q. I will ask you, please, sir, to state whether or not both 32 and 33 are pictures that you had taken of No. 1 slope, left manway, and in which you testified about Mr. Jones making some statements there to you. Are they both pictures of the same No. 1 slope, left manway?

A. Yes.

Q. All right, sir, now look at those two pictures, please. Which one of those is nearer the hoodlum, 32?

A. 32. Let me make sure. 32.

Q. Where did you have your camera standing when you took 32? Was it standing or down on the ground, or was Rogers sitting down or stooping, or what; how did he take that picture?

A. I think that camera must have been about three feet from the ground, in order to get that view back down the manway.

Q. How close to it do you think it was taken?

A. I didn't take the measurement myself, but I said about three feet.

Q. You mean to say he was about three feet of the place when he took it?

A. No, the camera was about three feet from the ground.

Q. About how far distant from where it starts down the hill to that?

A. About twenty-eight feet or something like that.

Q. Now, then, this is the same place a little farther away from the hoodlum—I mean closer.

A. Yes, that is farther down the manway.

Q. After you get to the hoodlum?

A. Looking back towards this place.

Q. All right. Now, Mr. Jones told you then that that place was a new place they were fixing and it hadn't been in use before May 1, 1941, a new passage way that they were putting in there, didn't he?

A. No.

Q. He didn't tell you that?

A. He told me that after I got down to the bottom of the hill.

Q. I don't care where he told you that; he told you that before you got out of there?

A. Yes.

Q. That this was a passageway that was not used at all prior to May 1, 1941?

A. It was there.

Q. I know, but it wasn't used as a walkway but they were fixing and preparing it for a walkway?

A. He said nothing about fixing or preparing it at all.

Q. Did he say anything about using it before May 1st?

A. I recall that.

Q. You recall that?

A. He said it had been used prior to May 1st.

Q. Did you put anything down in your notebook?

A. I didn't put anything down there.

Q. I want to see if you put anything in there that would indicate to you so that you could testify about it, that that place had never been used prior to May 1, 1941.

A. I remembered that. I didn't put it down.

Q. You didn't put down everything?

A. He told me that after—

Q. I don't care where he told you. You didn't put it down. You put down what Templeton said, didn't you?

Mr. Harris:

He has answered that.

The Court:

He told you.

Mr. Harris:

Yes, he told you.

The Court:

Now, Mr. Burr, I want you to quit repeating your questions.

Mr. Burr:
I will do the best I can, if your Honor please. I have got a witness here that is showing—

The Court:
I don't think he is at all. He is a very respectful witness.

Mr. Harris:
He is very respectful.

Mr. Burr:
But I don't think he is affording a fair basis as a witness who took down notes—

The Court:
He is, because you asked him about the notes and he told you about them, so let it go at that.

Mr. Burr:
—by that sort of testimony, I respectfully insist, and except to Your Honor's attitude, as shown by the record.

The Court:
There is no attitude about it.

Mr. Burr:
It shows exactly what happened, my questions and Your Honor's statement.

The Court:
I want you to be fair to the witness.

Mr. Burr:
And I want the Court to be fair to me.

The Court:
I am fair to you.

Mr. Burr:

All right, sir, we disagree.

The Court:

In what way am I not fair to you? Whereby have I invaded your rights?

Mr. Burr:

I think I have got a right to cross examine a witness of this kind to develop the full facts about it.

The Court:

That has been accorded to counsel, Mr. Burr, by the Court.

Mr. Burr:

Well, sir, I must respectfully disagree with the Court in this connection. That is all I have got to say about it.

The Court:

I am not going to put up with that sort of thing.

Mr. Burr:

All right, sir, I respectfully except again to the statement of the Court. That is all I can do.

Q. Now, will you please turn next to No. 35.

A. That one (indicating).

Q. All right, sir. In No. 35 there that is a cinder path along there, isn't it?

A. No, that is not cinders. It is good footing. It is made as if it were cinders, but I don't think it is cinders.

Q. Will you look at your notes and see what it says about that place?

A. I quote: "Jones et al. Good walking about two thousand feet." That is the path of the manway, looking up.

Q. Is that two thousand feet that you mean that is good walking right along there? Is that typical?

A. No, that is two thousand feet along the manway.

Q. Well, how long did that stretch last there?

A. Oh, about one hundred and fifty feet, something like that. I took that particularly as an example of the best walking condition in that manway.

Q. I didn't ask you that, did I, Mr. Wheeler? That is just a voluntary statement of yours?

A. Yes.

Q. Have you got any interest in this case?

Mr. Cooper:

We object to that question, of the Court pleases.

The Court:

Answer his question.

Q. All right, sir. Now, will you find picture 42 for me, Exhibit 42? Look at 42 and see what your notes show.

A. One hundred and a half left manway, an old trackway near 100 haulage, 29 stope.

Q. Is that all you say about it? Have you got any footings on that?

A. No, sir.

Q. Now, you say an old trackway. Mr. Jones and Mr. Wesson—you can see the track being torn up there, can't you? It shows on the picture.

A. It wasn't—

Q. Yes, you can tell it. Did you ever see a track before in a mine?

A. Yes, sir.

Q. Well, can't you tell by that picture that that track has been torn up and was torn up at the time?

A. Yes.

Q. I will ask you if Mr. Jones didn't tell you in reference to that, that that was torn up for the purpose of

making a new manway for the men to walk to get the powder, where they were going to place the powder magazine over there?

A. No, sir.

Q. Did he tell you anything about that at all?

A. No, that was a different stope.

Q. What stope was he talking about? Find me the picture you say he was talking about. It wasn't this one, was it? Let's get through with this.

A. In connection with powder, he said that was used to carry powder.

Q. Did he say how long it was used?

A. No.

Q. What did he say about it?

A. He said this was where an old trackage had been and it was torn up and they were moving the trackway, that the track went in another place.

Q. Anything else said about that?

A. They said about thirty-three men walked past there every day and some of the men carried powder past there, but it was on their own time.

Q. Anything else said?

A. Nothing else that I remember.

Q. Find me the one that you said they were fixing a new manway. Where was it, do you remember?

A. I can locate it fairly closely because it was off of 101 haulway, somewhere near 21 stope. I didn't take a note of that because it was in a stope.

Q. The place you are talking about was in a stope that he told you that?

A. Yes, where they were cutting through to another haulway from near 101 to 102 haulway, I believe.

Q. From 101 to 102 haulway?

A. Yes.

Q. And you are certain that he didn't tell you about this place you have just shown, the track?

A. I am positive.

Q. That they were tearing out a track for the men to get powder, in using that manway?

A. I am sure he said nothing about that.

Q. I see. All right, sir, if you will turn to the Tennessee Company's exhibits. I believe you said the photographer of the Tennessee Company was in there taking pictures and took pictures at the same time you did, didn't he, pretty well at the same place?

A. A good many of the same places.

Q. All right, sir. Look at your exhibits and the little pictures there and find the little picture of yours that is the same as this here, the man sitting there (indicating). This was at No. 6, Muscoda?

A. Yes.

Q. Men loading into the skip.

A. That is pretty close to that place. Both are at No. 6.

Q. And the picture that you identify as being probably taken at the same time is No. 6?

A. Not at the same time.

Q. I mean at the same place.

A. Yes.

Q. Showing the same skip?

A. Yes.

Q. And men getting into it?

A. Yes.

Q. Was at No. 6. All right, sir, you recognize that as being just a larger picture than yours, is about all?

A. The only place that could be is No. 6.

Q. I say, you recognize that it is just a larger picture than yours, showing people in the skip?

A. Yes.

Mr. Burr:

We want to offer that.

The Clerk:

T. C. I. No. 33.

(Thereupon, the photograph identified and testified about by the witness, showing men loading into a skip, was identified as T. C. I. Exhibit No. 33.)

Mr. Harris:
You haven't offered that one yet, have you?

Mr. Burr:
Yes, I am going to offer it.

Mr. Harris:
Suppose you mark it for identification, Mr. Clerk.

Mr. Burr:
No, sir, I am going to offer it straight.

The Clerk:
I am marking it right now No. 34.

Mr. Burr:
We offer that picture, Your Honor.

(Thereupon, the photograph identified and testified about by the witness was identified as T. C. I. Exhibit No. 34.)

Q. Now, then, you all took pictures of what has been referred to here as the bull pen, down on the underground loading station?

A. The hoodlum.

Q. The hoodlum. I don't believe you offered any of these pictures as exhibits?

A. I don't think so.

Q. All right, sir, I will ask you to look at that and see if that is a picture of Wenonah No. 8 man loading station, looking towards the slope.

A. Yes. I know that it is in one of those.

Q. Well, that is a good picture of it?
A. Yes, that is the hoodlum.
Q. And the others are very much similar?
A. Yes.

Mr. Burr:
I don't want to offer them all, but to give the Court some idea of what the hoodlum looks like.

Mr. Harris:
I object to him marking them unless you put them in, unless they are for identification; we are going to get the record confused.

Mr. Burr:
I offer it in evidence.

Mr. Harris:
Well, if he offers it in evidence that is all I have to say.

Mr. Burr:
Well, that is all I have offered. I haven't said anything about identification.

(Thereupon, the photograph identified and testified about by the witness, showing the hoodlum at Wenonah No. 8, the man loading station, looking towards the slope, was offered in evidence, having been identified as T. C. I. Exhibit No. 34.)

Q. Now, will you, please, sir, turn to your pictures offered in evidence at Wenonah—I think it is No. 6, Mr. Wheeler—of Wenonah No. 8, 108 overcast and right manway?
A. Do you know the number?
Q. I think it is 6. I am not sure that is my memorandum or not.

A. Here it is.

Q. Is that you standing there?

A. Yes, sir.

Q. You are the man standing in Intervener's Exhibit No. 18?

A. One of the men.

Q. One of the men, yes. Who went down the slope, further down?

A. I am not sure. It was one of the parties that went with us.

Q. I will ask you if that (indicating) was the picture taken at the same time and identically at the same place and the same people standing?

A. Yes.

Mr. Burr:

Mark that one, please, sir.

The Court:

Thirty-five.

The Clerk:

Yes, No. 35.

(Thereupon, the photograph identified and testified about by the witness as corresponding to Intervener's Exhibit 18, showing overcast 108 and right manway at Wenonah No. 8, was identified as T. C. I. Exhibit No. 35.)

Q. All right, sir, will you please, sir, find the one in No. 4 Muscoda, looking in the heading from the haulage way, the seventh right, No. 2 heading?

A. That corresponds to mine.

Q. The picture I am showing you will be marked T. C. I. Exhibit No. 36.

A. It is taken from a slightly different angle.

Q. Yes, I understand, the same place, and corresponds with Intervener's Exhibit No. 8.

A. Yes.

(Thereupon the photograph identified and testified about by the witness, taken at No. 4 Muscoda, looking in the heading from the haulage way, 7th right, No. 2 heading, was identified as T. C. I. Exhibit No. 36.)

Q. Now, when you took or had this picture taken, where was Mr. Rogers? Was he standing below or down on his knees with his camera, or sitting down, or where was it taken?

A. I don't know, sir.

Q. Did you direct where he should stand, or not?

A. I just told him to take a picture.

Q. You took that on account of this cable that runs across here?

A. Partly.

Q. Who was this stepping over it?

A. One of the workers. I don't know.

Q. And the same cable that is in that picture is here?

A. Yes. In one case it was slack and in the other case it was pulling.

Q. You took that on account of the cable being across the track?

A. Yes.

Q. What sort of cable was that, do you know?

A. It was a steel cable of the type ordinarily used, on the hoist, on the scraper loader.

Q. But not extra cable or anything of that sort?

A. No.

Q. A steel cable, a hoist, is that what you call it?

A. A hoist cable.

Q. And you took that one because the man had to step over it in walking?

Mr. Harris:

He has answered that once, if the Court pleases.

A. I took a picture of the heading too.

Q. All right, sir, look at this one here, No. 4 Muscoda, timbering to heading No. 87 near first upset. Have you got one to correspond to that?

A. No, that didn't turn out well.

Q. You took one of that but it didn't turn out well?

A. No.

Q. You took it on account of some timbers that were apparently—

Mr. Harris:

We object to that. He has introduced no picture of it.

Mr. Burr:

I am going to introduce it just as quick as I can ask about it.

Mr. Harris:

He can't ask him about a picture that was not introduced in evidence because it didn't develop well. I think that is going far afield, if the Court pleases. There is no such picture in evidence.

Mr. Burr:

I intend to put one in evidence.

(Thereupon the photograph about which the witness was questioned, taken at Muscoda No. 4, showing timbering of heading No. 87 near first upset, was identified as T. C. I. Exhibit No. 37.)

Q. I believe you said that you took a picture, Mr. Wheeler, at the same place and showing the same timbers that are shown there on T. C. I. Exhibit No. 37, timber-

ing in heading 87 near the first upset, but it didn't turn out well?

A. We took a picture in that heading. I am not certain it was the same timber but it must have been approximately the same.

Q. Well, you took a picture of some timbers in the heading?

A. Yes, a fairly good—we wanted a good picture of that.

Q. You took a picture of the same thing?

A. Yes, we took a picture of the same thing.

Q. Don't you know every time you took a picture Mr. Alexander took a picture?

A. He had a different camera and was back a little.

Q. I didn't ask you that. I asked you if he took a picture every time you took a picture. I will ask you this: The place you took the picture that didn't turn out well and didn't have a picture that you thought didn't show a good support for the roof, that was your idea in taking the picture, was it?

Mr. Harris:

That is the same question I objected to a while ago, if the Court pleases. He is talking about a picture that has not been introduced in evidence.

Mr. Burr:

I can't help about not being introduced in evidence.

The Court:

I will let him cross examine him.

Q. Will you answer that?

A. Yes.

Q. Your answer is yes?

A. Yes.

Q. All right, sir. I want to be certain. Now, is this a good picture of that place?

A. Yes.

Q. Do you know anything about timbering in an ore mine?

A. A little bit.

Q. Where did you learn?

A. From what your officials told me.

Q. Your education on ore mines is what you got here in these mines?

A. Yes.

Q. Well, have you had any anywhere else?

Mr. Harris:

I think he went over all of that in getting his qualifications.

Mr. Burr:

He said he knew something about them. I want to find out what he knows about them.

Q. What do you know about timbering in mines?

A. Well, I know—

Q. Have you ever worked in any?

A. No.

Q. Were you ever employed about timbers?

A. No.

Q. Were you ever employed about a mine at all?

A. No.

Q. Did you ever design timbering for a mine? Do you know where the proper place is to put timber in a mine, where to cut your places, where to put your support?

A. No.

Q. You didn't introduce it because it didn't come out so well?

The Court:
The photo?

Mr. Burr:
Yes, sir.

The Court:
That has been over four times, Mr. Burr.

Mr. Burr:
Well, sir, he volunteered statements when I asked him a question about it.

The Court:
I know—

Mr. Burr:
All right, sir, I am still excepting respectfully to not being allowed the privilege of cross examining him.

The Court:
I am not going to allow you to ask the same question four times.

Mr. Burr:
I understand what the Court is not going to allow me to do.

The Court:
I have told you three or four times.

Q. The picture that turned out bad, have you got it with you?
A. No, sir.
Q. Have you got it at your room?
A. I think so.

Q. Will you, please, sir, get it when you go to your room for lunch?. Did you take a picture at the same place this one was taken? That is Mr. Dulaney. Find that one for me, please, sir.

A. I don't have that with me.

Q. Did you offer that one?

A. No.

Q. You never saw this one before this morning, did you? Did you take a picture of this that has not been offered in evidence?

A. Yes.

Q. And it has not been offered in evidence?

A. That is right.

Q. Is that a correct picture of how the walkway looks at that particular place?

A. Very good. It doesn't show exactly the same thing mine does.

Q. You didn't offer this, though?

A. No.

Mr. Burr:

We ask that this be identified.

The Clerk:

T. C. I. No. 38.

Mr. Burr:

The right manway, as indicated on the back.

(Thereupon, the photograph identified and testified about by the witness, showing a manway, was identified as T. C. I. Exhibit No. 38.)

Mr. Burr:

And this is another. I have offered one of those, if Your Honor cares to see it. It is another one of the

hoodlum. They are all about the same. There is no use offering two or three.

Q. They are all about the same?
A. Yes.
Q. Have I asked you about this one or not?
A. No, sir.
Q. Will you find one that this is similiar to?
A. I remember trying to get a picture there but it didn't turn out at all. It was a complete blank.

Mr. Burr:
Mr. Guyton, will you, please, sir, mark on there where that picture is, and also this one. These are in connection with another matter, the testimony of Mr. Patterson, that is not included in that picture, Your Honor. I will get to that later.

Q. Now, just one other. There is a picture of the place over there that was taken—the tipple, looking to it. It shows a bath house there. Is that a fair picture of what it purports to show there?
A. Yes, sir.

Mr. Burr:
We ask that that be identified.

(Thereupon, the picture identified and testified about by the witness, showing bath house and tipple, was identified as T. C. I. Exhibit No. 39.)

Q. And a similar picture to the one that he has got a picture of. That covers the same thing?
A. Yes.

Mr. Cooper:
Are those all the pictures, Mr. Burr?

Mr. Burr:
Yes, these are all.

The Court:
Let's take a few minutes recess

(A short recess was then taken.)

(By Mr. Burr):
Q. If you will turn to Exhibit No. 11, the picture that purports to be a picture of heading No. 9 in No. 4 mine. What do your notes show about that picture?
A. Shall I read them?
Q. Yes, sir.
A. That last picture, left manway, lower end. Pardon me, what is it?
Q. No. 11.
A. That was before the skip in the numbers. Heading 89 at first upset looking towards face. J. L. Parsons, assistant mine foreman, stated men would be at work at 6:45.
Q. That is what your notes show. That was an actual working face?
A. The working face, a place for the men to be on there.
Q. You never were in that mine before in your life, were you?
A. No, sir.
Q. Don't you know the men that worked down there would bring the car down and they were paid for the time they were at that place right there?

Mr. Cooper:
We object to that. He has testified what he told him.

A. The foreman told me different.
Q. What foreman?

A. Mr. J. L. Parsons. I specifically asked whether the men had to go past this before their time started at 6:45 and he said yes.

Q. Did you ask whether or not they brought the—that was a part of the working place? You heard Mr. Ball describe the working place here, didn't you?

A. No, I did not.

Q. Well, assuming the working place is down where the sidetrack is, where they haul the ore, that part of the mine, is that where the cars are being hauled down, out from the face to the sidetrack?

A. That wasn't what Mr. Parsons told me, though.

Q. Well, just what did Mr. Parsons tell you? Read what you have got down there he told you. That is what I want.

A. Well, this is just a summary of the conversation with him.

Q. Read what you have got down there.

A. It says, "J. L. Parsons, assistant mine foreman, stated men to be at work by 6:45. That meant that the men who ran scraper loader had to be, according to Mr. Parsons, on the scraper loader. The men who work up in the stope had to be beyond this place and gathering their tools or some other thing."

Q. Mr. Wheeler, what did Mr. Parsons tell you?

A. That is exactly what he told me.

Q. He told you all that you now state?

A. Yes.

Q. Told you that?

A. Yes.

Q. And that is what you put down in your notes?

A. I just put down something of it to remind me.

Q. Do you know whether or not the sidetrack is there, the very picture that you are looking at is the sidetrack, or not?

A. I don't know what you mean by sidetrack.

Q. Well, the place where the ore is brought out of the working place by the crew and they leave it down at what you call the sidetrack, the main haulage way?

A. Yes, this connects up with the main haulage way.

Q. How far is the actual fact where they put the holes in up there; is it shown there in that picture, where they drill the holes?

A. The opening of the stope is shown here.

Q. That is it right here, isn't it?

A. Right over the top of the first car (indicating).

Q. That is where they do the actual drilling?

A. Right on up in that stope, yes.

Q. All right, sir. Now, look at No. 12.

A. Yes.

The Court:

Were you through with 11?

Mr. Burr:

Yes, sir. I would like to leave it over yonder.

Q. What do your notes show about No. 12?

A. The last picture of the day. "Left manway at lower end of run-around at bottom of slope. About two hundred to two hundred and fifty feet to left manway haulage. Service crew paid for walking here, miners not."

Q. Anything else?

A. Not for that picture.

Q. What else have you got there?

A. I have got, "Mine well lighted at that time."

Q. Now, who was the mine foreman with you or assistant mine foreman with you when that picture was taken?

A. O. B. Stone.

Q. All right, did Mr. Stone explain to you that the regular walkway for the ones that used this was around

another way and this was a trackage that the men themselves took by preference than the regular walk?

A. He said this was the regularly used walkway.

Q. Did he tell you about the other walkway?

A. He said that the men could go around the other way.

Q. Did you make any note of that, the men could go around the other way?

A. No. I was interested in where they did walk, not where they could walk.

Q. That was all you were interested in?

A. Yes, certainly.

Q. And you say positively that he didn't tell you that the men did—that the regular walkway was the other way and that the men had used this trackage?

Mr. Cooper:

He repeated it exactly, Mr. Burr.

Mr. Burr:

Show me that map there. Have you got one of those maps? Let me have that Exhibit 30.

The Clerk:

Which one?

Mr. Burr:

Of the Tennessee Company. What is the number of that mine?

Mr. All:

No. 4 mine.

Mr. Burr:

No. 4 mine, the Muscoda map.

Q. Look and see if that is No. 4 mine or No. 6 mine, that picture I just asked you about. Did he tell you how many crews worked in that place that you just testified about, No. 12 picture? Have you got that 12 picture there?

A. No, you must have it.

Q. Do you understand maps, Mr. Wheeler?

A. Somewhat.

Q. Somewhat. Now, can you locate—I will ask you if it is not indicated there with the red pencil mark the place where you took that picture, that is beyond the pocket?

A. I think that is it.

Q. I see, and the picture that you took is indicated there by lines running through there. Now, I will ask you if the regular haulage way don't go around that triangle in that place and if that is the one the mine foreman told you about?

A. That there are two wide switches.

Q. And the regular haulage way where that track is, it goes around that triangle?

A. Yes, I think that must be correct because here in the middle—

Q. Well, that is your best recollection?

A. —of the picture is one of the haulage ways that goes across there.

Q. Now, then the other questions that I asked you that I probably didn't give you an opportunity to answer: How many crews worked up beyond that place?

A. I don't believe they specified.

Q. Did he tell you which one it was?

A. That was the main manway.

Q. No, this wasn't the main manway.

A. That was my understanding.

Q. It shows it was a cut through; it is not a track at all. Is there a track along there; was there a haulage way along there?

A. No, there is no haulage way there.

Q. How long is this manway shown here that you just pointed out?

A. It must continue here, this left manway haulage.

Q. The haulage way comes around the circle, doesn't it?

A. And then they join.

Q. Well, this space right here is a very short distance that cuts through from the main haulage until it hits the main haulage again?

A. That is correct.

Q. How many feet?

A. About three hundred feet from one haulage to another.

Q. From where it leaves the haulage to where it hits the haulage?

A. Yes.

Q. And the haulage is not shown on that map there?

A. It is indicated at that point.

Q. It runs around it just like the red mark shows it?

A. The red mark doesn't show the runaround.

Q. It goes through?

A. Yes.

Q. And it runs around the triangle and goes through, doesn't it?

A. Around the circle at the pocket.

Q. That is right, around the circle at the pocket. Now, look at 14. I think that is the last picture I want to ask you about. I didn't have this picture before me when you were examined about it yesterday and I took it down. Mr. Harris asked you whether or not the objects were muck or what the objects were and you said muck and slate. What objects are you talking about, those over there to the left of the track or on the track?

A. Between the track.

Q. Between the track. You were not speaking about these over here?

A. No, sir.

Q. And that is the way the pathway looks?

A. Yes, sir.

Q. As shown by the picture.

The Court:

Is that 14?

Mr. Burr:

That is 14, yes, sir.

Q. Now, Mr. Wheeler, I understood you to say you were employed by what department?

A. Department of Labor.

Q. What department of the Department of Labor?

A. The Wage and Hour Division.

Q. The Wage and Hour Division?

A. Yes, sir.

Q. Is that the division that Colonel Fleming is the head of, or General Fleming?

A. That is correct.

Q. How long have you been in the employment of the department?

A. Since 1938.

Q. And previous to that what was your business?

A. I was—just previous to that I was an economist employed by the National Labor Relations Board.

Q. And how long were you employed by the National Labor Relations Board as an economist?

A. From August, 1934.

Q. And previous to that what was your business?

A. I was research assistant to Dr. H. A. Milius, Chairman of the Department of Economics, at the University of Chicago.

Q. He became President of the National Labor Relations Board, or Chairman of it?

A. No, sir, not at that time.

Q. Well, later on?

A. He is at present.

Q. Is that your whole experience as an economist since you graduated? Well, when did you graduate?

A. I graduated in 1929.

Q. I see. At the University of Chicago?

A. No, at Reid College in Portland, Oregon.

Q. When did you go to the University of Chicago?

A. After a year of teaching at Reid I went to the University of Chicago.

Q. You graduated at Reid College?

A. Yes, sir.

Q. And had a year's teaching at Reid College?

A. Yes, sir.

Q. Then you went from Reid College to the University of Chicago?

A. Yes, sir.

Q. And while there you worked with Dr. Milius as an economist?

A. I was his research assistant.

Q. Then you went from there as an economist of the National Labor Relations Board?

A. That is right.

Q. Then you went from there as Chief Economist of the Wage and Hour Division?

A. No, sir.

Q. What then?

A. The classification is Senior Economist.

Q. Senior Economist?

A. That is right.

Q. Have you been Senior Economist since you have been there?

A. Yes.

Q. So that is your experience?

A. That is right.

Q. Business and otherwise?

A. That is right.

Q. Now, are you familiar with the opinion and the report attached to it that has been offered in evidence in this case?

Mr. Harris:
We object.

Mr. Cooper:
If the Court pleases—

The Court:
Just a minute. Let him finish his question.

Mr. Cooper:
I am sorry. I thought he had completed it.

Q. Which is referred to as the modified portal to portal wage and hour opinion.

Mr. Harris:
We object to whether he is familiar with it or not.

The Court:
I sustain it.

Mr. Burr:
We except.

Q. In this opinion it refers to a report made by Mr. Stein and states that, as a basis of the report—I will just read the language of it: "In order to base his answers to these requests on the fullest possible knowledge an investigation has been conducted, including field surveys and questionnaires, reports by the division regional direc-

tors and public conferences." Did you have anything to do with making up those field surveys?

Mr. Harris:
We object to that, if the Court pleases.

The Court:
I will let him answer it.

A. I didn't supervise that stuff.
Q. I didn't ask you that. You work sometimes without supervising, don't you?
A. What?
Q. You do some work without supervising, don't you?
A. No, I didn't make it up either.
Q. Did you have anything to do with it, do any work in connection with it?
A. No, sir.

Mr. Harris:
We object.

The Court:
Overruled.

Q. Have you ever seen it?

Mr. Harris:
We object to that.

The Court:
Sustained. He said he never had looked at it.

Q. Did you have anything to do with the questionnaires that were sent out, as special economist?

Mr. Harris:
We object to that, if the Court pleases.

The Court:
Sustained.

Mr. Burr:
We except.

Q. Did you assist Mr. Stein in reviewing the questionnaires and field surveys?

Mr. Harris:
We object to that.

The Court:
Sustained.

Mr. Burr:
We except.

Q. Did the questionnaires take into consideration the coal mines of the United States?

Mr. Harris:
We object to that.

Q. Or get any information about the coal mines?

Mr. Harris:
We object.

The Court:
Sustained.

Q. Did they take into consideration the ore mines in the Lake Superior region?

Mr. Harris:
We object.

Q. Open pit and underground mines?

The Court:
Sustained.

Mr. Burr:
We except. Your Honor evidently thinks that none of that is material and I will just cover the rest of it by an offer to cross examine this witness in reference to what those surveys and questionnaires don't contain. I heard Mr. Harris object. I want to know whether the Government is objecting.

Mr. Cooper:
Yes, we are.

Mr. Smith:
The witness said he didn't have anything to do with them.

Mr. Burr:
No, sir, he didn't, but I am just asking him if he had seen them.

The Court:
You offer to prove?

Mr. Burr:
Yes, sir, I offer to prove that he has seen them and that he is familiar with them and that they do not include any information at all with reference to underground ore mines in the Lake Superior district or any other district other than what they have got here in Ala-

bama and that they do not inilute any investigation or consideration of coal mines of the United States; they do not include or consider in any way the investigation of open pit mines in the Lake Superior regions and of other underground mines.

Mr. Harris:

And we object to all of that, each one separately and severally.

The Court:

The objection is sustained.

Mr. Burr:

And we except and make the offer. The Government objects too?

Mr. Cooper:

Yes.

Mr. Burr:

I want to ask at this time again and make a motion to require the production of all of these papers. I have already made it once but I want to make it in view of the attitude of the pleadings at this time.

The Court:

The production of what papers?

Mr. Burr:

The production of papers which Your Honor ruled that we could not have before the trial, the surveys and the questionnaires.

Mr. Harris:

We object to going into any phase of that, and on behalf of the unions I represent or any individual I represent I

object on the further ground Your Honor has already ruled on it, from his statement, and the case will go on forever if every time a case occurs to an attorney—

Mr. Burr:

If Your Honor please, I don't think that is a fair statement. Always after the evidence is through everybody has a right to make motions. I thought, of course, Your Honor was going to sustain the objection in view of your rulings.

The Court:

Yes, you have a right.

Mr. Burr:

And I insist that testimony that has come out here shows that it is more relevant and material.

Mr. Harris:

And we insist on the objection.

The Court:

I sustain it.

Mr. Harris:

And we insist separately and severally.

Mr. Burr:

I think that is all for Mr. Wheeler. Mr. All wants to ask a few questions about the Sloss mine.

(By Mr. All):

Q. Now, Mr. Wheeler, I will ask you what picture, what exhibit corresponds to this picture?

Mr. Harris:

May I suggest that both the attorney and the witness talk loud enough for all of us to hear. You all get close together and I can't hear either one of you.

The Court:

All right, talk louder.

A. The picture which you have just handed me corresponds to Intervener's Exhibit 29. It was taken from farther back up the track.

Q. Which was taken farther back up the track?

A. The picture you have just handed me. The picture was taken farther towards the stope.

Q. I see. That is generally corresponding, so far as location?

A. Yes, sir.

The Court:

Mr. All, do you want to introduce that?

Mr. All:

I want to ask him some questions about it. Yes, I am going to introduce it.

The Court:

I think for the record it should be identified.

Mr. All:

Can you tell me what my next exhibit number will be?

The Clerk:

The next number will be Sloss 43.

Q. And your statement with respect to the picture I hand you is with respect to Sloss Exhibit 43?

A. That is correct.

Q. Now, you remember that place, don't you, Mr. Wheeler?

A. Yes, sir.

Q. And there was some water here?

A. Yes.

Q. Do you recollect talking to Mr. Costner about that?

A. Yes.

Q. Well, he told you that at that point on account of some vacation that the people who were working back in there were gone and that the pumping had been relinquished. I mean had been continued over, suspended for a while, on account of the vacation there?

A. Yes, he said they had been on a twelve-day vacation.

Q. The vacation, and that accounted for that?

A. Do you want me to read my notes on that?

Q. Well, it don't make any difference. Go ahead.

A. After Mr. Costner told me that I asked a union representative, Mr. Hill, if that water was unusual and he said it was there all the time. So Mr. Costner suggested that we talk with the head miner, Mr. C. L. Willoughby, who was working with his crew from that point. Mr. Costner and I walked back towards the stope and consulted with Mr. C. L. Willoughby and Mr. Willoughby told us that the water had been there all the time; that it had been higher; that it had gone down during the twelve-day vacation, and that no pump was in there, no pump had been furnished, and that was why the water had been standing there.

Q. No pump had been furnished during the vacation?

A. Had never been furnished.

Q. You mean that there had never been a pump back there?

A. That is correct.

Q. Well, it was hard to get around that water?

A. Climb over rocks.

Q. You didn't have to do much climbing, you mean, walk over rocks?

A. You did through the background.

Q. Walk through here (indicating)?

A. Your choice of rocks or water.

Q. And at that time the water wasn't above the rail, was it?

A. No, it was above the ties, but not above the rail.

Q. Mr. Costner told you that there was a double shift working back here?

A. Yes, sir.

Q. Only fourteen men?

A. I think it was fifteen.

Q. Well, at any rate it was a double shift, it was a night and day shift?

A. That is right.

The Court:

What is the Intervener's exhibit corresponding to that?

The Clerk:

Intervener's No. 29.

Mr. All:

Now, will you make this 44?

The Clerk:

Yes.

(Thereupon, the two photographs about which the witness was questioned, having been taken in Sloss Red Ore mine, were identified as Sloss-Sheffield Exhibits 43 and 44, respectively.)

Q. Will you get your corresponding picture to my 44, Mr. Wheeler?

A. Yes, sir.

Q. That is the same place, isn't it (indicating)?

A. Yes, that is the same place. He had a flash gun. It shows more clearly in this picture, but it is identical.

Q. My picture is a little better picture than yours?

A. That is correct.

Mr. All:

I want to introduce that.

The Clerk:

This will be Sloss 45.

Mr. Brody:

To what does that correspond, Mr. All? 44 to 30 is the last one.

Q. Now, this 45 of mine, to what does that correspond with the intervener's?

A. We had a double exposure, I believe, on that. I am sure of that. Our picture of that failed, but we did take a picture at that point.

(Thereupon, the photograph about which the witness was questioned, having been taken in Sloss Red Ore mine; was identified as Sloss-Sheffield Exhibit 45.)

Q. You haven't got your picture of that point, whatever picture you have?

A. I believe I have the negative.

Q. But yours failed?

A. Yes, unfortunately.

Q. You didn't introduce it in evidence?

A. No, sir.

Mr. Harris:

Well, the witness didn't introduce that.

Mr. All:
Well, I mean by that that you all did.

Mr. Harris:
Mr. Cooper was the man that put on evidence. The witness merely answered questions.

The Court:
There is no such picture at this point?

Mr. All:
No, sir. I am just asking him.

The Court:
That is the question I am asking.

Mr. All:
No, sir, they didn't have any picture. Mr. Harris, I didn't mean to be technical when I said that.

Mr. Harris:
What I meant, it gives the impression in the record that the witness selected the pictures to be introduced. The witness didn't have anything to do with it. Mr. Cooper was the one that introduced evidence.

Mr. All:
All right, sir, will you mark this one, please?

The Clerk:
This is Sloss No. 46.

(Thereupon, the photograph offered by counsel for the Sloss-Sheffield Steel & Iron Company was identified as Sloss-Sheffield Exhibit 46.)

Q. I show you Sloss 46 and ask you to get your corresponding picture of that and let us see it.

A. I must confess, Mr. All, that was our first day in the mines and we had several failures in pictures, and again that was one of them.

Q. That is a good picture, isn't it (Sloss 46)?

A. That is a picture of the scene that I saw in that mine. I don't know the location of it, however.

Mr. All:

No. 46, I want to offer that in evidence, Your Honor.

The Court:

All right.

Q. Did Mr. Hill or any of the union representatives accompany you, take you to places where the pictures were to be taken, or did you independent of them select the point?

A. Mr. Hill took us to points that he wanted us to see but he had nothing to do with the selection of the place where I took the pictures.

Q. What I am driving at is this, Mr. Wheeler: It is a fact that you didn't undertake to pick out the worst places that you could find?

A. That is absolutely not true. I picked the good and the bad ones.

Q. Well, that took you to the places that you have said were the worst, whether you took others or not?

A. Yes, that is true.

Q. You got the worst ones. Did you request them to find the worst places?

A. I requested them to take me to the places that they thought were difficult walking.

Mr. All:

Well, that is what I mean by the worst.

The Clerk:

That is Sloss 47.

(Thereupon, the photograph handed to the clerk, taken in Sloss Red Ore Mine, was identified as Sloss-Sheffield Exhibit 47.)

Q. Have you got a match for that?

A. No, sir, I don't believe we took a picture there. I am not certain it is a manway.

Q. You say you are not just what?

A. A manway where the people walk.

Q. Were you present there? Is that a corresponding picture to the one that you took?

Mr. Cooper:

Judge, he can't tell whether it is a corresponding picture.

A. No, sir, I don't recall that one at all.

Q. Well, I will ask you this question: Did Mr. Kelly go in with the party, was he a member of the party all the time, the photographer that took these pictures?

A. Yes, but sometimes he went ahead of us lots of times and took pictures where we didn't take pictures.

Q. Well, did you have an opportunity to see where he was taking pictures?

A. Yes, we eventually went by the same place but I don't know whether he took pictures. I didn't make notes of all the places that he took pictures.

Q. Well, you had an opportunity to see him take a picture and to take a match picture, didn't you?

A. Unless I was busy somewhere else.

Q. But so far as you were concerned, they afforded you the opportunity?

A. Yes.

Q. And they didn't deny it to you, they didn't deny it, or there was nothing hidden?

A. Not so far as I know.

Mr. Cooper:

I don't think the witness has identified that picture, Judge.

Mr. All:

Well, do you object to my introducing this picture?

Mr. Cooper:

No, not if you can identify it.

Mr. All:

Well, I can identify it all right. I just wanted to see if you objected to it. Now, have you marked this?

The Clerk:

That will be 48. The other one was 47.

(Thereupon, said photograph was identified as Sloss-Sheffield Exhibit No. 48.)

Q. I hand you Sloss Exhibit 48 and ask you what is the corresponding picture that your man Rogers took?

A. I believe that is at the foot of the hill at the main hoodlum between 48 and 54. We didn't take a picture from this. Mr. Keily went down and took a picture looking up the hill. We took one down the hill.

Q. Did you have an opportunity to take one like this one?

A. We were out of films at that time. We thought we had a picture corresponding to that looking down hill.

Mr. All:

That is 49.

The Clerk:
That is 49.

(Thereupon, said photograph was identified as Sloss-Sheffield Exhibit 49, showing entrance to slope as No. 2 Sloss mine.)

The Witness:
I don't believe that we have a picture that corresponds with that.

Q. Well, do you know what it is?
A. Yes, that is Sloss-Sheffield No. 2 mine portal.
Q. That is the beginning, down the slope?
A. Yes, that is, as I recollect, a 20-degree grade, the main road from the portal way on down.
Q. I mean that is the entrance to the slope, is what I am asking.
A. That is right.

Mr. Brody:
What is the number of that?

The Clerk:
This portal is No. 49. This will be Sloss No. 50.

(Thereupon, said photograph was identified as Sloss-Sheffield Exhibit 50, taken looking across a heading into an upset at the beginning of a stope.)

The Witness:
We have no picture corresponding to that, although we have a picture taken at the same place looking in another direction.

Q. That is what I want, a picture taken at the same place.
A. Looking in another direction.

Q. Now, the picture that you say is not a corresponding picture but a picture taken at the same place with the camera pointed in another direction is what exhibit of the intervener?

A. 28.

Q. Now, in what does the exposure there—what does the difference consist in?

A. Part of the difference is in that he had a flash gun which gave a great deal more powerful illumination.

Q. Made a plainer picture.

A. What?

Q. A plainer picture?

A. Yes.

Q. What I am talking about in the question, what way the camera was pointed and the general location, what is the difference?

A. This was taken across the heading looking into a new upset at the beginning of the stope.

Q. When you say this, you mean the Sloss Exhibit 50?

A. Yes, sir.

Q. And this one is where, Intervener's 28?

A. This is looking up the haulage way toward the face.

Q. Looking up the haulage way toward the face. Now, you testified, as I recollect it, that when you got to that point that somebody told you to go no further, that the roof was dangerous at that time?

A. That is right.

Q. Now, who told you that?

A. I believe it was Mr. Costner, although it may have been Mr. Russell.

Q. Well, whoever it was that told you that told you that they were not letting the men work there or not going under that roof, just like they were denying you the right to go under it?

A. No, this face crew that ordinarily worked up there, they had been called back to clean up this rockfall.

Q. What I mean is that they were not letting the men go under a dangerous place and they were not allowing you to go under there?

A. These men were not under there and they didn't allow our party to go under there.

Q. What do you mean, these men were not under there?

A. I mean these men on 28, this face crew that ordinarily worked there.

Q. You mean they were not working up there then?

A. Yes.

Q. What kind of work do you call that?

A. I think they call it developmental work.

Q. You mean they were doing something to repair the roof, or do you know?

A. I don't know about that.

Q. Of course, you realize that the roof, somebody has got to repair it. You testified, Mr. Wheeler, that your title was senior economist and had had that title since you first went with the Wage and Hour Department or Division of the Department of Labor; you were the senior economist when you first went to the Wage and Hour Division?

Mr. Cooper:

Not the senior economist. A senior economist.

Q. A senior economist?

A. A senior economist.

Q. Well, I misunderstood you.

A. It is a civil service classification.

Q. A civil service classification. What is the function of an economist or a senior economist with the Wage and Hour Department. What is the field of your employment?

Mr. Harris:

We object, if the Court pleases, because all this witness has testified to is identification of the pictures in the mines, and to go into the functions of an economist or a senior economist—he has given no testimony on any economical subject at all.

The Court:

Overruled.

Q. Go ahead.

A. That varies with each senior economist.

Q. Well, you, what is your function with the Wage and Hour Division?

A. I make studies of various industries.

Q. Well, I want to go into a little more detail to show what sort of studies you are talking about.

Mr. Harris:

Well, we object to the study of various industries that he made.

Mr. All:

Well, Judge, I don't mean to ask him what various studies. I am trying to get his function, and we think since Your Honor overruled the other objection, if he came down here as an economist and is not performing his function there may be some inference drawn from the evidence that he has not done anything down here.

Q. What is your general field? I don't want you to go into any detail at all.

A. All of us have a wide variety of functions.

Q. You?

A. I make studies of various industries, particularly in reference to Court cases. That is, I prepare economic material.

Q. Well, you mean by that you get up evidence, is that what you mean?

Mr. Harris:
We object to all of that, if the Court pleases.

The Court:
I sustain the objection.

Q. Well, what is it you have peculiarly in connection with Court work?

Mr. Harris:
I don't see the importance of that, if the Court pleases.

The Court:
Sustained.

Mr. All:
We except.

Q. What was your function in coming down here? For what purpose did you become connected with this case?

Mr. Harris:
We object to that, if the Court pleases.

The Court:
Sustain the objection.

Mr. All:
Does the Government object to that too?

Mr. Cooper:
Yes.

Mr. All:
We except. That is all.

Mr. Burr:

I want to ask him one further question, for identification.

(By Mr. Burr):

Q. This picture here, what is the number of that?

A. No. 11.

Q. No. 11. I will ask you if the lunch table isn't right here, just about, back this way a little bit from there?

A. The lunch table is back of the photographer.

Q. About how far back, Mr. Wheeler?

A. It is between one hundred and two hundred feet, something like that.

Q. Well, this is—you were told—this is the track that the mechanical loader works on in the heading, the stope?

A. It is the track that it is on.

Q. And this is the track that they told you it worked on?

A. It was at the time, yes. It was there at the time.

Q. And this is the track that they haul ore on?

A. Yes.

Q. Down to the sidetrack?

A. Yes.

Mr. Burr:

That is all.

Re-Direct Examination.

(By Mr. Cooper):

Q. Mr. Wheeler, I believe in answer to questions from both Mr. Burr and Mr. All you stated that all of the pictures which were taken under your supervision were not introduced?

A. That is correct.

Q. Did you state, or will you state, please, who made the selection of those pictures that were introduced through your identification?

A. The attorneys in the case.

Q. Do you have there the other photographs which I believe I gave you at the recess, and will you take those and see if in conjunction with the ones you have these are all of the photographs that were taken by you and developed, taken under your supervision, I mean?

A. They are in a brief case, I believe.

Q. Will you examine these? I believe they are marked.

A. No, sir.

Q. They are not all?

A. No, sir. They are in the last brief case over there.

Q. Will you look at this group of pictures and state, please, whether they, in conjunction with the ones introduced, constitute all of the pictures taken under your supervision?

A. Yes, sir.

Q. So that all of the pictures are present and available?

A. Yes, sir.

Mr. Cooper:

Now, would you like to see these additional ones, Mr. Burr?

Q. Mr. Wheeler, I believe Mr. Burr asked you whether a Mr. Rogers accompanied you on your visits?

A. Yes, sir.

Q. Through the mines. Will you state, please, when Mr. Rogers arrived in Birmingham and when he made his first visit with you?

A. He arrived about July 7th and made the first visit in the mine with me July 9th.

Q. On the first visit did he make any dust counts in the mines?

A. No, sir.

Q. Had he any equipment available at the time for the taking of dust counts?

A. No, sir.

Q. Subsequent to that time did any such equipment become available to him?

A. Yes, sir.

Q. Did he then take any dust counts?

A. He took dust counts in one mine, Muscoda No. 8.

Q. Did he take any subsequent to that?

A. No, sir.

Mr. Burr:

No. 8 mine is at Wenonah, not Muscoda.

Mr. Cooper:

He said Muscoda 8.

The Witness:

Did I say Muscoda?

Mr. Cooper:

Yes.

The Witness:

Wenonah.

Q. Will you state subsequent to the taking of the single dust count whether or not he had equipment available for the taking of dust counts?

A. He did not.

Q. What happened to his equipment?

A. His equipment broke.

Q. Did he make a report of the single dust count that he was able to make?

A. The dust counts in the single mine—there were dust counts in that mine.

Q. Did you see the report?
A. Yes, sir.

Mr. Burr:
We certainly object to any report. We would like to examine Mr. Rogers. He has gone.

Mr. Cooper:
I just wanted to ask the question.

Mr. Burr:
I just want to put you on notice that we object to any dust count of Mr. Rogers when he is not here.

Q. Did Mr. Rogers make a report of the single dust count in the series of mines which he was in?
A. He did.
Q. Will you look at this document and state whether that is the report made by him?
A. It is.
Q. And you testify that subsequent to this time this was taken he didn't make any dust counts?
A. His equipment arrived before this dust count was made and then it broke down and he was unable to make any further dust counts.
Q. Can you explain the circumstances—

The Court:
I don't see why you want to go into all of that unless you have got him here.

Mr. Cooper:
If the Court please, I think this witness' testimony has shown that Mr. Rogers was unable to complete his investigation because of the lack of equipment.

The Court:
Well, it has been over and shown.

Mr. Cooper:
We do not intend, of course, to introduce what we consider an inadequate account of the dust counts that were made. We didn't think this report was adequate.

The Court:
Why did you introduce that report?

Mr. Cooper:
We don't intend to introduce it. We were explaining that we didn't think it is a complete report; it is inadequate, but we state that it is available to counsel if they wish to see it.

Mr. Burr:
We are not interested in it at all.

Mr. Cooper:
That is all, Mr. Wheeler.

The Court:
Who will you have?

Mr. Burr:
I will examine Mr. Clayton next.

Plaintiffs' Rebuttal Evidence.

3280 TOM L. CLAYTON, being called as a witness, and being duly sworn, testified as follows:

Direct Examination.

(By Mr. Burr):

Q. Mr. Clayton, you work for the Tennessee Company?

A. Yes, sir.

Q. In what capacity, please, sir?

A. Assistant Mine Foreman, No. 8 mine.

Q. How long have you been Assistant Mine Foreman?

A. About sixteen months.

Q. Previous to that time what position did you have with the company?

A. Head miner.

Q. About how long were you a head miner or section foreman that corresponded to the head miner's job?

A. Well, I was a section foreman in 1926 for a short interval and then I was head miner from about 1933 until I was assistant mine foreman.

Q. Now, had you worked in the mines previous to the time you were section foreman?

A. Yes, sir.

Q. How long have you been in the mines all together?

A. Almost eighteen years.

Q. The same mine or different mines?

A. The Wenonah division.

Q. The Wenonah division. Do you know a colored man by the name of Wade Jefferson—I believe that is his name—Ward Jefferson?

A. I do.

Q. Has he been a head miner in the mine you have been assistant mine foreman of?

A. He has.

Q. Since you have been assistant mine foreman. I will ask you to state whether or not at any time you ever said this in substance to Ward Jefferson: Instructed him

to always have his crew go down on the second man trip and told him if he didn't do it to hand in his brass, or words to that effect in substance? Have you ever said anything like that to him?

A. I have not.

Q. Did you have a conversation with this man about what skip he should ride on?

A. I did.

Q. Just tell the Court what that was and how it came up and what was said by you to him and he to you, just as briefly as you can.

A. Well, the first part of the year on my inspection of the entry that he works in, three right heading on the south haulageway, at that time I inspected his place and after inspection he complained to me about his leg hurting him. He said it was caused from someone kicking him on the skip.

Q. Did he say whether it was a white man or colored man that kicked him?

A. A white man.

Q. Just go ahead and tell the occurrence, what he said.

Mr. Harris:

Any occurrence about any kicking on the skip is not in rebuttal, if the Court pleases.

Mr. Burr:

It is in rebuttal of the conversation, of what he said to others that he did.

Mr. Harris:

He denies it.

Mr. Burr:

I offer to show what the conversation was between them. That is what I am trying to get to. In other

words, what I am offering to show, so Your Honor can understand it, I am offering to show that the only time that he said anything to this Negro about what skip he should ride was when this Negro complained to him on this occasion, while he was riding down, he and several other Negroes on the same skip with the white men and they were having trouble with the white men and asked to have something done to correct that trouble, and that Mr. Clayton told him that all he wanted him to do was not to have any trouble, and that is what he tried to avoid, and for that reason the first trip was made up for the white men and the second trip was a mixed crew; that he would try to arrange, if he wanted him to, to go down on the third trip, and arrange the schedule so that none of the colored men would ride the second trip, and that Jefferson told him no, that he would go down on the first skip like he was going.

Mr. Harris:
All right, go ahead.

Q. Is that in substance—what I stated there?
A. That is correct. Will you read my last statement there?
Q. Well, just go ahead.
A. I told him that probably he should see the doctor about his leg.

Mr. Harris:
We object to that.

Q. Never mind what you said about seeing the doctor, but what you said about the white men and arranging and skip for him.

Mr. Harris:

Well, Mr. Burr has already given a complete recital and said, "Is that what he said?" and he said, "It was."

Q. What I stated was the substance of what happened, is that correct?

A. Yes, sir.

Mr. Burr:

All right.

Mr. Harris:

No questions.

Mr. Burr:

Now, we want to examine next Mr. Ball.

3284 E. M. BALL, being recalled, and having been previously sworn, testified as follows:

Direct Examination.

(By Mr. Burr):

Q. The paper that has been identified as Exhibit 27, Mr. Ball, which is a meeting held on January 18, 1935, in which you referred to a request that the position of tallyman be re-established, in order to expedite it I have prepared a written memorandum—I have prepared a copy of these minutes which I will now read to you: "Request that the position of tallyman be re-established: This step was taken in the interest of economy, efficiency and the elimination of the duplication of work and not with any idea of instituting or instigating what you men refer to as 'the stretch-out system.'" Do you recall that occasion, Mr. Ball?

A. I do.

Q. The union, were they or not requesting that you continue to have the two positions, one down below and one up at the tally house, was that what was being brought up at the time by the union?

Mr. Harris:

We object to that, if the Court pleases. We introduced their minutes kept by them and furnished under subpoena of the Court. Now, it is not in rebuttal of their minutes furnished by them to go into a discussion of what those minutes show. They speak for themselves.

Mr. Burr:

Why, if Your Honor pleases, the idea of saying that when they offer a part of the minutes we can't ask the witness to tell what it is about, explain it?

The Court:

Overruled.

Q. Is that what brought about the discussion at that time, Mr. Ball?

A. There was one occupation abolished; the occupation of tallyman was abolished and the timekeeper came out from underground and took his position at the tally house. He was known as the timekeeper at the tally house.

Q. And they wanted that re-established?

Mr. Harris:

We object to leading.

Q. Were they or not requesting that two men be employed instead of one; was that what the request was, in substance?

A. I believe their request showed that they wanted the position of tallyman re-established.

Q. I don't know whether you stated on your direct examination or not, it has been so long since you testified, but I would like for you to briefly summarize to the Court the practices in the mines in reference to taking time over the period of time that is involved in your testimony when you were on the stand. How was it first taken?

Mr. Harris:

We object to reopening his main case, if the Court pleases. It is not in rebuttal. It is just asking him to rehash what he gave on the main case, and we call the attention of counsel and of the Court that when they closed that was a close and we wanted to know whether they were through. Now, any rebuttal testimony is properly admissible.

The Court:

I don't believe that is in rebuttal, Mr. Burr.

Mr. Burr:

Why, if Your Honor pleases, they have offered this minute. Your Honor overruled my objections to the minute. The discussions as to whether or not they should use a tallyman or put an underground timekeeper up there, I think I have a right when they offer evidence of this sort to ask him how it came about and what occasioned it. What I am proposing to show by him, if Your Honor remembers it, I don't care to go over it.

Mr. Harris:

I think Mr. Ball was on the stand a great length of time and they went into everything and made out their main case primarily with Mr. Ball.

Mr. Burr:

This is not the main case, if Your Honor pleases.

The Court:
I will let him testify.

The Witness:
I testified about that before. I would be glad briefly to go over it again.

Mr. Burr:
You did go over it before?

The Witness:
Yes, sir.

Mr. Burr:
Then if you did, I don't care about it again.

The Court:
I don't remember it.

Mr. Burr:
Off the record.

(A discussion was then had off the record.)

Mr. Burr:
All right, sir, that is all I want on that.

Q. Now, I will ask you, Mr. Ball, to refer to Defendants' Exhibit 28 and that portion of it that was read by Mr. Harris beginning as follows: "I believe that we talked about the section foremen, timbermen and trackmen. We should also divide the time of the underground carpenter who is the chute builder." That was on June 24, 1935. Were you dividing time at that time?
A. We were.
Q. That was during the depression, you might say?
A. Yes, sir.

Q. "We talked this matter over, Mr. Perry, Mr. Abbott and myself, after you left, as we told you we would do. They left this matter up to me, that if we could get the same results as to efficiency and safety as we are now doing, we will be willing to try it. Our record of lost-time accidents is bad and I do not want to do anything that will make that record worse." Do you recall that statement, Mr. Ball?

A. I do.

Q. State whether or not your record at that time was bad, at that particular time.

A. It was worse than it has been previously.

Q. Was it worse during the time you were dividing the work?

A. Yes.

Q. And was it occasioned by the fact that you were dividing the work, you had to have different men on different jobs, and inexperienced men on certain jobs?

Mr. Harris:

I think that is calling for a conclusion.

The Court:

Yes, I think that is a conclusion.

Q. Well, did you find that it was due to the fact that you were dividing work among the men?

Mr. Harris:

That is the same question, if Your Honor pleases.

The Court:

He has already testified. He testified as to facts at that time.

Mr. Burr:
He said they were dividing time. I am asking him if it was due to that fact that his record got worse.

The Court:
I will permit him to answer.

Q. Was it or not?
A. The accidents were worse when we were dividing time.
Q. Now, after you got back on the regular work did the accident record improve or decrease?
A. Improved very greatly.

The Court:
What exhibit is that, Mr. Burr?

Mr. Burr:
Defendants' Exhibit 28.

The Court:
June 24th?

Mr. Burr:
June 24, 1935.

Mr. Harris:
Yes.

Mr. Burr:
Did you offer one February 22, 1936?

Mr. Harris:
I thought I did.

Mr. Burr:
Was that a photostatic copy?

Mr. Harris:

No, I didn't introduce a photostatic copy of any kind.

(Discussion off the record.)

Q. Mr. Ball, in this minute it refers to this remark—

Mr. Harris:

Which one is that?

Mr. Burr:

That is 25.

Q. It starts with, "Mr. Barksdale: We have a nice loading station in No. 6 now and I would like to get a ruling about the men staying in line when they go out to catch the skips." And the reply was, "Mr. Carter: Any man that is caught pushing will be disciplined, as men are liable to get hurt." That refers to getting in and off of the skip?

A. That is right.

Q. Has it or not been the practice of the company at all times to prevent, if they can, overcrowding or pushing or anything of that sort on the skip?

A. We do.

Q. Is that or not for safety purposes of the men?

A. Safety only.

Q. In that connection, with reference to the safety of the employees, or, for that matter, invitees anywhere in the mines, does the company endeavor to look after the men, whether they are invitees or employees, or anybody else, if the are traveling or walking in the mines, or when they are going down on the skip before, or going to their working places?

Mr. Harris:

We object, not in rebuttal.

The Court:

I don't think it is in rebuttal, but I am going to let him answer.

A. At all times we caution our employees about points where they could be injured or hurt.

Q. Now, are you familiar with the general rules in reference to the matter of safety and walking and conduct on the property of the company, the general rules?

A. In a general way I am.

Q. Well, now, did you have that same sort of rules in reference to—from the time the men get on the property of the company until they leave the property of the company?

Mr. Harris:

We object to all of that, if the Court pleases. That is not in rebuttal whether they have rules, etc., about the company property.

Mr. Burr:

Why, if Your Honor pleases, Your Honor allowed some evidence to go in yesterday on his statement that he offered to show supervision as to safety, and we are offering to show now that the same rule applies.

The Court:

Overruled.

Q. Is that a fact?

A. We have rules as to the conduct of employees on the company property.

Q. And do you have warnings or do you have instructions about hazards that they might meet at any place on the company's property?

A. We do.

Q. And has that been in existence ever since you have handled company affairs and ever since you have been connected with it?

A. Yes.

Q. Is that also true not only of the ore mines but is it also true of the steel mills and any other works of the company?

A. Yes, sir.

Q. Now, I call your attention next to Defendants' Exhibit No. 29, which appears to be January 17, 1936, where this statement appears on the second page: "There is another matter I want to mention to this Committee: For several days a number of men have been late reporting to the mines. We pay a day's wage for a day's work and we expect the day's work. Whenever a man comes to the mine late, dragging along and encourages others to be late he is setting a bad example. I want this understood thoroughly—men must be on time; we don't care whether they work here or not, but if they want to work here they will have to be on time or else they will be disciplined, even to discharge." Do you remember the occasion that brought up that matter, Mr. Ball?

A. I do.

Q. State what it was.

A. There was a certain crew of men, certain employees, that were making a practice of arriving late at their working place underground. The practice was increasing and we felt that they were not giving the company a square deal by not putting in their full time according to their agreement, and I issued that order to them.

Q. Was there ever a time when the men were required to report at the portal at a particular time or not?

A. No. The schedule operates automatically. Our man trips run at a particular time.

Mr. Harris:

He has gone over that.

The Court:
Yes.

Q. What was the rule as to when they reported for work, and when this matter came up were they late getting to their work after 6:45 or not?
A. They were late.

Mr. Quinn:
Was the rule in writing?

The Court:
Never mind. That has been answered.

Q. That is what you referred to at the time and that is what brought it up?
A. Yes.
Q. Mr. Ball, there has been something said here about the temperature. Do you know what the temperature of the mines is, the average temperature in the slope and the haulage ways? I am not talking about at the stope places, the working places, but in the walkways, slopes and haulage ways.
A. Oh, about sixty-five degrees.
Q. Is it uniform when you get in the mine?
A. No, sir.
Q. Is it uniform in the travel ways and the haulage ways?
A. Fairly uniform from the mine portal to the working places.
Q. That is what I am talking about. I mean by that, for illustration, say today if it is ninety-five outside, underground in the main slope and up to the working places or close to the working places, about what would the uniform temperature be?

Mr. Harris:
I don't think that is in rebuttal, if the Court pleases.

The Court:
There has been no testimony on that.

Mr. Burr:
Well, if Your Honor pleases, he has asked witness and witness about the sweating as they came back from this, that and the other haulage way.

The Court:
There is testimony that it got hotter as they went down there.

Mr. Burr:
Yes, sir.

The Court:
Overrule the objection.

Q. I mean underground as contrasted with the outside. Would it be hotter or cooler or what?
A. It would be much cooler underground than it would be outside.
Q. Is the temperature underground—and I am asking only about the main slope, in the haulage ways, haul ways, and walking ways—Is it substantially the same in the wintertime as it is in the summer or any great variation.
A. There is a great variation due to natural ventilation; in the wintertime it would be a little better than it would be in the summertime.
Q. Is there a greater variation on the inside between winter and summer and different seasons of the year than there would be on the outside?
A. Oh, no, there is just a slight change.

Q. The year around, Mr. Ball, which would be the most favorable place?

Mr Harris:
We object to that.

The Court:
Sustain the objection.

Mr. Burr:
All right, sir, we except.

Q. Does the temperature remain fairly constant both in winter and summer underground in the mine?

Mr. Harris:
He has already been over there.

The Court:
Yes.

Mr. Burr:
Your Honor, I believe that is all.

Mr. Harris:
Let me have that last one you asked him about.

Cross Examination.

(By Mr. Harris):

Q. Mr. Ball, in this you say that a certain crew reported late underground?

A. I used that word "crew" meaning certain employees, a crew of employees.

Q. At 6:45?

A. Yes.

Q. Now, I will ask you—the last paragraph of that reads: "Mr. Ball: Beginning Sunday night the whistle will blow at 6:00, 6:20 and 6:30. The morning whistles will be blown at 6:00, 6:20 and 6:30." You made that statement, didn't you?

A. Yes.

Q. They can't hear those whistles underground, can they?

A. Certainly not.

Mr. Harris:

That is all.

Re-Direct Examination.

(By Mr. Burr):

Q. Those whistles you are talking about there, they were the whistles to indicate what?

A. The surface crew and the whistles to indicate six o'clock when they pulled the skip out of the sidetrack.

Q. Go ahead. What is the next one?

A. Six-twenty, that is just a warning signal for men approaching on their jobs or working places. That is just done to make them get there at that time.

Q. And the next one?

A. Is a surface whistle for all workers.

Q. Did your skips run down in that period of time?

A. Yes, sir.

Q. In other words, could a man that knew where his working place was get there by 6:45 on the outside, knowing the distance he had to walk, and what skip to take—

Mr. Harris:

I think you have been over all of that.

The Court:

I think you have.

Mr. Burr:
All right, come down.

Mr. Harris:
Just one question here.

Re-Cross Examination.

(By Mr. Harris):

Q. This statement about the whistles was in reply to Mr. Barksdale's question or statement: "Mr. Barksdale: Mr. Ball, we do not believe in the men being late for work and we will be glad to help you in this matter. Why not blow the whistle at night the same as in the morning?" That happened just like you have got it in the minutes there?

A. The whistles are blown at night, or were.

Re-Direct Examination.

(By Mr. Burr):

Q. Well, are they blown at night just like they are in the morning?

A. Yes, sir.

Q. Are the skips run the same way?

A. Yes, sir.

Q. Mr. Ball, maybe you could tell me when Mr. Eddins died.

A. He died in 1940.

Q. When?

A. In 1940.

Mr. Burr:
Mr. Eddins was the name that Jefferson testified about.

The Court:
Yes, I believe he was the foreman.

Mr. Burr:

Yes, sir, at that time he was a track foreman.

Mr. Harris:

That is the one we had so much trouble trying to find out how to spell his name.

Mr. Burr:

That is right, E-d-d-i-n-s. We want to make a motion at this time to exclude from the evidence Ward Jefferson's statements as to his conversations with Mr. Eddins, as the evidence shows he is now dead.

Mr. Harris:

I don't know of any rule of evidence that prevents a transaction with a deceased person. It is when the deceased person is a party in interest. Eddins was not a party in interest.

Mr. Burr:

The statute doesn't say any party in interest but a representative or agent of the company.

The Court:

Yes, I will exclude it under the statute, as not admissible.

Mr. Burr:

All I want is an exception if Your Honor does not exclude it.

The Court:

No, it is not admissible.

Mr. Burr:

Of course, it is not admissible.

The Court:

You say he was an employee of the defendant company in this case?

Mr. Burr:

I didn't know he was dead. I didn't offer it to bind us by a dead man's statement.

The Court:

Well, it is excluded.

Mr. Harris:

I didn't know he was dead. I didn't offer it to bind him by a dead man's statement.

Mr. Burr:

I didn't know he was dead either. I found it out afterwards.

The Court:

Anything else? We will adjourn until 1:30. Court is adjourned.

(Thereupon, at 12:20 P. M., July 31, 1941, a recess was taken until 1:30 of that date.)

After Recess, 1:30 P. M.

Mr. Burr:

If Your Honor pleases, I want to offer at this time the same thing I did—I didn't have it prepared then—for the Republic Steel Corporation that I did for the Tennessee Company. That is a list.

The Court:

A list of employees?

Mr. Burr:

A list of the classifications of underground employees, yes, sir.

The Court:

All right, sir.

Mr. Burr:

Do you want a copy of this?

Mr. Harris:

Now, there was some evidence—I tried to check all of these employees and I asked one of the men yesterday or the day before and he said many of the classifications had been changed recently.

The Court:

Well, now, Mr. Burr, when was that, up to what time?

Mr. Burr:

Up until May 1, 1941, and prior to that time.

Mr. Harris:

This is a classification as of July, 1941.

Mr. Burr:

1941.

Mr. Harris:

I had difficulty in checking these classifications. We spent about a half hour on one of them. So that was why I asked that man, one reason I asked the man, if the classification had been changed and he said many of them had.

Mr. Barr.

Well, I will ask Mr. Thompson. I guess, Mr. Thompson, you can look over these classifications. I want to ask you

if these classifications were all there on May 1, 1941, and prior to May 1, 1941.

Mr. Harris:
Well, I don't think that is in rebuttal of anything.

The Court:
It is not in rebuttal but I will let it come in.

Mr. Burr:
Yes, I think it is.

The Clerk:
Republic Exhibit No. 20.

Mr. Harris:
I don't think whatever they classify them is in rebuttal of anything.

The Court:
I don't think it is in rebuttal.

Mr. Burr:
Well, just so it is in. We can argue about whether it is in rebuttal. The Court has said he overrules your objection.

Mr. Harris:
All right.

The Court:
That is Republic Exhibit—

The Clerk:
No. 20.

Mr. Burr:
Do you want to examine Norman on this?

Mr. Harris:
No, I don't want to ask him anything about it at all.

Mr. Burr:
He says this is a list—put the date on there, will you, please, sir, May 1, 1941, and prior thereto.

The Court:
Well, did you ask Mr. Thompson?

Mr. Burr:
Yes, sir.

The Court:
And he said that was the classification as of May 1, 1941?

Mr. Burr:
Yes, sir, that is right; isn't it Norman?

Mr. Thompson:
Yes, sir.

Mr. Burr:
And Mr. Harris said he didn't care to examine him

The Court:
That is Exhibit No. 20, Republic?

Mr. Burr:
That is right.

(Thereupon, said classification list of employees of the Republic Steel Corporation, May 1, 1941, and prior thereto, was admitted in evidence as Republic Exhibit No. 20.)

Mr. Burr:

Now, if Your Honor pleases, you recall I stated when my attention was called to the fact that the stenographers in preparing the Republic bill had in one place said in parenthesis Spaulding was not in it, so I have amended the bill so as to include that and supply that now.

The Court:

Yes.

Mr. Burr:

So that will be attended to.

The Court:

Have you submitted them a copy of the amendment?

Mr. Burr:

I am giving it to them now, Your Honor.

Mr. Harris:

Of course, we want to refile to this bill as amended all the papers that we heretofore filed.

Mr. Burr:

Just to save time could we file this as of the prior dates? Would that be satisfactory? That would save the Court a lot of entries and writings, etc.

The Court:

I think so. We will do so.

Mr. Burr:

Just file it back as of the date the pleadings were settled.

The Court:

You can file your answers to this complaint as amended.

Mr. Burr:
Yes, sir, as of the date we amended it.

Mr. Harris:
That might affect the record. Suppose you just file it as of today and just indicate all orders refiled—I mean all papers refiled and all rulings the same.

Mr. Burr:
That is all right with me.

Mr. Harris:
I think that will cover it.

Mr. Burr:
Put that on the bottom. That is all right.

The Court:
Mr. Burr, I allowed that amendment the day we opened Court, didn't I?

Mr. Burr:
Yes, sir.

The Court:
There is no need of my stating it?

Mr. Burr:
No, sir.

The Court:
The record shows.

Mr. Burr:
And I stated you had given permission for the introduction of it.

Mr. Harris:

And I offer an amendment in behalf—in each case as to the Tennessee and the Republic and Sloss, and I have already given those gentlemen a copy. The amendment does not change any question in the case in any way. It simply adds the people who came in and asked me to represent them after I had filed it before and then adds the name of Mr. Kovner and Mr. Pressman, in the prayer at the end where I inadvertently left them out.

The Court:

As attorneys?

Mr. Harris:

As attorneys and claim for an attorney's fee. It makes no change in the merits of the case one way or the other.

The Court:

Mark it filed, Mr. Clerk.

Mr. Burr:

Is that all in the way of pleadings you have?

Mr. Harris:

Mr. Lipscomb just whispered to me that he has something he didn't bring up. I didn't know about that. That is some claimants. Why can't he just attach them?

Mr. Burr:

I think that is a matter that is to be handled—it is not in order at this time.

The Court:

I thought we had an agreement earlier in this case.

Mr. Burr:

What we are trying now is the declaration. We are not trying individual claimants at all.

Mr. Smith:

We have been acting on that theory. We have a good many that we haven't named. I think the cross-claimants ought to be taken up at a separate time.

The Court:

That is right. It depends on the ruling of the Court.

Mr. Burr:

Depends on the ruling of the Court altogether.

The Court:

I think we agreed in open Court that if the case was determined against the plaintiffs—

Mr. Burr:

Then we would take up next the question of counterclaims.

The Court:

Then we would take up the question of the claimants.

Mr. Smith:

And then we can make such amendments as are proper.

The Court:

I think that was agreed in open Court.

Mr. Burr:

I think it was also covered by the pretrial order.

The Court:

Yes, I think it was. I haven't got it before me.

Mr. Burr:
Yes, sir, I know it was.

The Court:
All right, we will proceed, gentlemen.

Mr. Burr:
If Your Honor pleases, the next evidence I want to offer is—I am sure in connection with Your Honor's previous rulings that you will sustain objections to?

The Court:
Which I sustain objections to.

Mr. Burr:
I say which you will sustain objections to.

The Court:
Oh.

Mr. Burr:
I have a witness here to make the proof by; in case Your Honor does not sustain objections why I will call him around and make the proof. It is a summary showing lost-time accidents including fatalities, coal mines and iron ore mines, United States Bureau of Mines, the years 1937, 1938 and 1939. It gives the number of lost time accidents in all iron ore mines of the United States and then gives the number in coal mines of the United States and then gives the frequency rate so as to take care of the proposition that there are more coal miners than ore miners, and attached to it are the Government publications from which the summary is made. They are coal mine accidents in the United States, 1937 and the same thing for '38, the same thing for '40 and '41, and then the summaries for the metal mine accidents in the United States over the same period of time.

Mr. Harris:

We object, of course, to the summary and to each of the documents, separately and severally.

The Court:

Sustained.

Mr. Burr:

And we except, separately and severally. Now, we want to offer next the same thing comparing iron ore mines and coal mines of the Tennessee Company in that same regard.

Mr. Harris:

And the same objection, separately and severally to each of those.

The Court:

I sustain the objection.

Mr. Burr:

And we except. And in sustaining the objection, I understand there is no point made on the fact that we have a correct summary. If there is, I want to prove that. The Court sustains it on the principle that it is not admissible, I understand.

The Court:

Yes, that is my idea.

Mr. Burr:

And, of course, I offer to show that the summary is correct in both instances, and your Honor would sustain that; you don't think it would be admissible if it was correct.

The Court:
I sustain the objection.

Mr. Burr:
Yes, sir, and we offer these, T. C. I. and Plaintiffs'. Mark the big one general and the other one is T. C. I.

The Clerk:
The T. C. I. would be No. 40.

(Thereupon, said summary showing lost-time accidents, including fatalities, coal mines and iron ore mines, Bureau of Mines of the U. S., 1937, 1938 and 1939, was identified as Plaintiffs' Exhibit No. 52.)

(Said summary comparing lost-time accidents, iron ore mines and coal mines of the Tennessee Coal, Iron & Railroad Company was identified as T. C. I. Exhibit No. 40.)

Mr. Burr:
Now, if Your Honor pleases, I don't know whether it has been offered or not, but I don't know how else we can do it—I want to offer all of the minutes of all of these various meetings which were produced in evidence, some offered by the defendants, with the suggestion that in the event there is an appeal on either side that we can abridge the record at that time by the other side checking what I am offering them for, that there is no mention of portal-to-portal in here.

The Court:
Is that the purpose?

Mr. Burr:
Yes, that is the purpose, but I haven't had time to read them over myself. I have had them read and I

could have that testimony here any way. I think that is the suggestion made the other day, that you could have them checked.

Mr. Harris:

Of course, I don't admit they are admissible and we reserve an objection to them, if the Court pleases, but so far as the mechanics of checking them, if there is an appeal, there is no trouble about that.

Mr. Burr:

He could make that check easily.

Mr. Harris:

We object separately and severally in the case of the meetings with the Wenonah Committee and the Muscoda Committee and the Ishkooda Committee and the meetings with the General Committee.

The Court:

Overrule the objection.

The Clerk:

That would be 41, 42, 43 and 44 of the T. C. I.

The Court:

They are admitted for that purpose Mr. Burr stated.

(Thereupon, said minutes of meetings, Tennessee Coal, Iron & Railroad Company, with Wenonah, Muscoda, Ishkooda and General Committees of the International Union of Mine, Mill and Smelter Workers were admitted in evidence for the purpose stated, as T. C. I. Exhibits 41, 42, 43 and 44, respectively.)

Mr. Burr:

Now, in the same way and for the sole purpose of the impeachment of the testimony of Mr. Anderson in reference to what occurred in the Republic labor hearing, I offer for the record a proceeding, stenographic report of all those hearings beginning on January 10, 1934, and ending on May 4, 1934.

Mr. Harris:

May I see one of those?

Mr. Burr:

Yes.

Mr. Harris:

Your Honor will recall that he said he was present only at the first one. I am going to object to these on various grounds.

The Court:

It looks like you could specify what part of it.

Mr. Burr:

Well, the only thing I can do is like the other, I can state and state from my recollection, without having read all of this recently, that nowhere at any time—and that is what I offer it for—from the time the complaint was filed—

The Court:

Well, he testified along the early part of the hearings, didn't he?

Mr. Burr:

He said he attended only one hearing, that was in Atlanta, and that is in this book here.

Mr. Harris:

I object on the ground that no proper predicate is laid for that.

The Court:

I want to hear you on that.

Mr. Burr:

Now, he means by the proper predicate I haven't got the stenographer here that took it.

Mr. Harris:

That is one thing, and another thing if we go into that we are going to have to review the hearing over there in Atlanta and I have never seen any reporter, I don't know whether he took down everything, I don't know whether he took down the arguments, I have no idea what occurred over there. I never heard of it until yesterday.

Mr. Burr:

Mr. Lipscomb was there. The stenographer, of course, wasn't our stenographer. She was Rachel Peoples Rogers, the stenographer of the Labor Board that heard the case.

The Court:

I sustain the objection.

Mr. Burr:

We except. Of course, I don't want to be in the attitude of testifying myself and I don't think it is important enough to do it, but I do state here in the presence of Mr. Lipscomb—

Mr. Harris:

Well, I object to ex parte statements.

The Court:
That is not testimony.

Mr Burr:
I offer for the record to be checked by Mr. Lipscomb who was one of the attorneys.

Mr. Harris:
We are not interested.

Mr. Burr:
Then I have done all we can do about it until I have the stenographer here.

Now, if Your Honor pleases, I want at this time in closing the case to reoffer—it won't take but a minute or two to make the reoffer—to reoffer all of the evidence and showings in evidence which we have previously offered in reference to the coal mines, first in Alabama, and second all the coal mines in the United States, as to the conditions, and we offer to prove at this time that the same mining practices, since we offered that evidence, have been testified to by the various witnesses for the defendants as to depositing and taking up checks and as to being transported partially into the mines by the same kind of conveyances, and as to the character and physical conditions of the skips; and of the main haulage ways, and of the main slope, and as to the general methods of mining, and particularly as to the question of ventilation and air and height and depth of stopes, and hazards and perils and dangers; in other words, we offer at this time to prove all of the conditions that I have mentioned before.

Mr. Smith:
That has all been over and been ruled on, separately and severally.

Mr. Burr:

Well, I have got a right to reoffer the testimony because I think I have made it relevant since I had my objection sustained, including the same method of carrying tools and of working and of providing tools; in other words, I am offering to prove, and I am ready to prove it, if the Court will allow me to prove it, that conditions in all respects as to methods of mining have existed in the coal mines substantially as they have been testified here to have existed in these iron ore mines in Alabama.

Mr. Harris:

And we object to each offer, separately and severally, on all the grounds we have heretofore assigned in our various arguments to the Court about going into the coal mine operation.

The Court:

Objection sustained.

Mr. Burr:

Now, then, we make the same offer as to the other coal mines of the United States.

The Court:

Outside of Alabama?

Mr. Burr:

Yes, sir, outside of Alabama and including the ones in Alabama.

Mr. Harris:

The same objection.

The Court:

Overruled. I mean it is sustained.

Mr. Burr:
And we except. And the same thing in reference to the operations of the open pit mines, Your Honor will recall. I want to reoffer that and take an exception, at the close of the case.

Mr. Harris:
And, of course, we reinterpose all the grounds of objection heretofore interposed.

The Court:
Sustained.

The Clerk:
Mr. Burr, did you intend to put in these General Committee meetings?

Mr. Burr:
Yes.

The Clerk:
You didn't name it. No. 45.

Mr. Burr:
There are four all together.

The Clerk:
Five all together.

Mr. Harris:
Six counting Ishkooda, isn't it?

Mr. Burr:
There may be.

The Clerk:
I have only five.

Mr. Burr:

Well, there was another one back yonder when Mr. Patterson was on the stand.

Mr. Clerk:

That will be 46.

Mr. Burr:

Well, it has already been identified. All right, so, so far as I can think of, so far as the Tennessee Company and the Republic Company, that is our case.

Mr. All:

Your Honor—I didn't speak to you gentlemen about it, but I have here—I don't know whether it is in the record or whether it was overlooked, and that is this Ruffner contract, the one I was introducing for the Sloss. You will recollect there is only one year of that, Colonel.

The Court:

Don't you remember whether it has been introduced or not?

Mr. All:

I find it there, and I think it must have been overlooked. There was only one year that there were negotiations for that particular contract.

The Court:

What year was that?

Mr. All:

March 7, 1941. I just put it in for what it is worth. You see, we didn't have a Ruffner contract until they just began, until they just reopened, so that we didn't have any long chain. We have reopened one mine and that is the reason it slipped me.

Mr. Harris:

Now, there is one question that comes up in my mind on his contract. As Your Honor will recall, I have objected all along to the contracts or anything else as having any effect to invalidate an act of Congress, but, as you understand, when this contract was signed representations were made to the unions that they would follow the law.

Mr. All:

Well, whatever it was, that will apply to this contract as to the other one. We will let the record show that. And we have a letter that you dictated or Mr. Lipscomb dictated and Mr. Davis' reply to it and that will go in and this too. You will remember I introduced in connection with the red ore a letter that Mr. Van Jones wrote from the office of Mr. Lipscomb and Mr. Davis' reply to it. And as I understand, Mr. Costner, that same situation existed with reference to the other, did it?

Mr. Costner:

Yes, sir.

Mr. Harris:

The same objection, of course.

Mr. Lipscomb:

That don't show that I dictated that letter. That is Mr. Van Jones' letter.

Mr. All:

Well, you did, didn't you?

Mr. Lipscomb:

No, I didn't write it.

The Court:
You want to offer that?

Mr. All:
Yes, sir, just to account for the copy.

The Court:
Is there any objection to it? If there is I am going to overrule it. I admit it.

The Clerk:
This will be Sloss Exhibit No. 51.

(Thereupon, the document referred to as the Ruffner contract dated March 17, 1941, with Ruffner Iron Ore Miners Union 512 was received in evidence, identified as Sloss Exhibit No. 51.)

Mr. All:
I want to ask Mr. Costner about two of those pictures that were put in evidence.

Mr. Harris:
Mr. All, I understood that letter introduced by you was introduced by the Sloss?

Mr. All:
I introduced it for both of them. I introduced it and the original.

Mr. Harris:
That is what I understand.

Mr. All:
Yes.

Mr. Burr:

Your Honor said, I believe in the beginning, and I think we agreed on that, that there are certain documents that have been introduced in evidence which were original documents, and we would like permission, of course, allowing the other side to check, that copies can be furnished at any time of these documents. I am thinking particularly about these minutes and others that occur to me. We will have copies made and submit them to you for checking, substituting these for the originals, if that will be satisfactory.

Mr. Brodie:

That will apply to every document on either side?

Mr. Burr:

Yes, just swap documents for checking and that will apply to every document that has been offered by anybody.

The Court:

Yes, that will keep your originals—

Mr. Burr:

Yes, sir.

The Court:

That is permitted, of course.

Mr. Burr:

Judge, there is one exhibit we offered, if we find it we will leave it like it is, and if we don't find it we will withdraw it from the record. You know we had a picture of the Lake Superior mine and Mr. Mitchell testified there were certain conditions in the face, and I stated if I found it I would put it in and if I didn't find it I would just withdraw it. If I don't find it we will just withdraw the introduction of it.

The Court:
All right.

3311 T. E. COSTNER, being recalled and having been previously sworn, testified as follows:

Direct Examination.

(By Mr. All):

Q. On July 9th, I believe, did you accompany the party of wage and hour representatives into the Sloss No. 2 mine?

A. I did. I am not certain about the date. Approximately that.

Q. Now, you heard Mr. Wheeler—the day Mr. Wheeler and Mr. Rogers went into the mine and took pictures?

A. Yes, sir.

Q. Were you present at that time?

A. Yes, sir.

Q. Were you present when this picture was taken?

A. Yes, sir.

Q. Does that properly represent—

The Court:
What exhibit?

Mr. All:
That is Sloss Exhibit 48. That is the one that Mr. Wheeler couldn't identify. He said he didn't know where it was.

Q. Where is that?

A. That is on 48 left slope haulage way, looking up the slope. This picture was made approximately seventy-five or one hundred feet below the point where Mr. Wheeler's representative took the picture.

Q. Took that picture?
A. Yes.

The Court:
The picture that he couldn't develop?

Mr. All:
Yes, sir, that is the picture that wasn't developed and Mr. Wheeler said he couldn't identify that spot. For that reason I had him testify. I want to introduce this picture.

The Court:
What exhibit?

The Clerk:
Sloss No. 48.

(Thereupon, said photograph taken on 48 left slope haulage way in Sloss No. 2 mine was identified and admitted in evidence as Sloss Exhibit No. 48.)

Q. Now, Mr. Costner, I show you Sloss Exhibit No. 43 and Intervener's Exhibit 29 and will ask you if those pictures were taken at about the same spot and, if not, how near?

A. They were taken in almost identically the same spot. The difference is that the camera in one was focused more nearly towards the floor, while the other one showed a more horizontal view or longer view.

Q. Which one shows the longer view?
A. The Sloss picture.
Q. The Sloss picture shows the longer view?
A. Yes, sir.
Q. Now, that is the picture you hold in your left hand?
A. Yes, sir.
Q. The Sloss picture?
A. Yes, sir.

Q. Now, looking in, you see cars, apparently a trip of cars or part of a trip of cars.

A. That is right.

Q. Are those cars toward the mouth of the mine or beyond the mouth of the mine further down into the mine?

A. They are between the point where they were loaded and the surface.

Q. In other words, looking at the picture as you have looked at it you are looking towards the top?

A. That is right.

Q. The more remote parts of the mine are beyond here?

The Court:

You mean the top is in front of the camera?

The Witness:

Yes, sir.

Mr. All:

That is what I am trying to get at.

Q. Now, from these pictures, Mr. Costner, there appears to be water here and I believe Mr. Wheeler testified that there was water at that point. Will you tell the Court the extent of the water that was there at that time and how the men got around the water and the occasion of the water being there?

A. Both pictures will show that the water is approximately four inches deep, as it does not come over the top of the six-inch tie.

Q. You mean the rail?

A. No, I mean the tie. It comes over the tie at some points, if I am not mistaken. It doesn't come over the rail, however, and the swag is approximately sixty feet long.

Mr. Brodie:

The what is sixty feet long?

The Witness:

The swag, the swale, the low point.

Q. And what is the dimension of it?

A. It is approximately ten feet wide, eight to ten feet, and sixty feet long and the deepest point would be less than the thickness of a tie and the rail combined. The water doesn't come over the rail.

Q. And the picture shows the water at the deepest point?

A. Yes, sir.

Q. Now, is there a way to walk around that water or do you have to walk in it to cross that pond?

A. No. This party passed this pond twice that day and no one was forced to get into the water. Both pictures show that you can pass alongside the water without getting in the water.

Q. Both pictures show that you can pass alongside the water without getting in the water. Now, will you tell the Court the occasion of that water being in the swag?

A. This is the furthermost point in this mine. It is also the lowest point for workings within a radius of twelve or fifteen hundred feet. That mine had been idle for approximately two weeks at which time vacation allotment had been given the men.

Q. What is the connection between the vacation allotment and the water being there?

A. There was no one working in the mine, no pumpers, no compressed air and no facilities for taking care of water that had drained into the low point during the idle period.

Q. Prior to that time how was the water taken care of?

A. It was taken out periodically by pumps discharging into another location.

Q. You have a pump there?

A. We moved one in there after.

Q. Now, that is your custom; I mean you usually do that?

Mr. Harris:

No, it is not the custom. That is what he did on that occasion.

Q. How did you keep the water out of that place?

A. Water accumulates there about every three months. We take a small portable pump to that point and remove it.

Q. You take a pump there and remove it. What is its condition now?

A. It was dry last Friday.

Q. When did you put a pump in there?

Mr. Brodie:

I object to that.

The Court:

I don't think that is in rebuttal.

Mr. All:

It is explanatory of the pictures, Judge, is what I wanted.

Q. Now, I am going to show you these two pictures, Sloss Exhibit 50 and Intervener's Exhibit 28, which appear to be at approximately the same point. Are they?

A. Yes, they are at exactly the same point. The difference is in the intervener's view the camera is focused a little further to the right and only shows a part of the view that is shown in the Sloss picture. For instance, this wall appears right here in the intervener's picture. That is this side right here. The two put together approximately like that would make one continuous view of the actual condition at that time.

Q. Now, what about the way the camera was focused to take the two pictures?

A. Well, you mean directed?

Q. How is that?

A. Which way was the camera directed?

Q. Yes, sir.

A. This one here shows farther around to the right. It shows a section of the haulage road beyond a point that we did not travel that day.

Mr. Brodie:

If Your Honor pleases, I would like to interpose an objection to this. I don't know what it is in rebuttal of. He is introducing additional pictures. They are apparently a part of his main case. He has not proven that this picture was inaccurate in any respect.

The Court:

Overrule the objection.

The Witness:

I think I completed what I started to say.

Mr. All:

You were telling about what this picture shows, the intervener's picture.

The Witness:

This picture shows a crew of men, which part of the crew also appears in this picture, the Sloss picture, and the whole group was working at this point, and the intervener's picture shows a section of the haulage road which we did not travel that day, while this Sloss picture shows the place where the men were actually engaged in work at the time of our visit.

Q. Now, did you stop this party at that point from going further?

A. I did.

Q. Now, what was the occasion of your stopping them?

A. We had met the section foreman, Buck Smith, who cautioned me about going further into this section or per-

mitting anyone to go in there, due to the fact that there was a bad roof there; the top was working, about to cave in.

Q. The top was working?

A. Yes, sir.

Q. About to cave in?

A. Yes, sir.

Q. That is what you call groaning?

A. That is correct.

Q. How did you remove that sort of top?

A. We placed crossbars, some of which are noticeable here, and take down such rock that cannot be made safe by timbering and that that can be made safe we timber.

Q. Is that kind of timbering done constantly in mines?

A. In all mines.

The Court:

I don't think you need to go any further.

Q. The point I am trying to get at is this: Were the men working back in there at that time?

A. No, there was no one working except this crew was fixing to set the timbers to make the place safe for production.

Q. The crew was the one that was going to work on the place to make it safe?

A. Right.

Q. Just one other question. How many men had occasion to walk past that point where the water was in the picture that we first discussed?

A. There is one working place beyond that point that is worked two shifts per day, and on one shift there are seven men and on the other shift there are eight men.

Q. Your last answer is with reference to the two pictures that show the water?

A. Right.

Mr. All:
That is all.

Mr. Brodie:
No questions.

Mr. Burr:
Judge, I inadvertently failed to ask a witness one or two questions about the pictures I asked about this morning. May we call him now, Mr. Jones?

The Court:
Yes.

3319 B. C. JONES, being called as a witness, and being duly sworn, testified as follows:

The Court:
What are your initials, Mr. Jones?

The Witness:
B. C.

Direct Examination.

(By Mr. Burr):
Q. Mr. Jones, what position do you have with the Republic Company?
A. Assistant Superintendent, Raimund Mine.
Q. How long have you been Assistant Superintendent?
A. Since the first of last September.
Q. Before that were you working for the company?
A. Yes, sir.
Q. In what capacity?
A. Assistant mine foreman.
Q. How long were you assistant mine foreman?

A. From March, 1936.

Q. And before that did you work with the company?

A. Yes, sir, I was mining engineer there from February, '35, up until then.

Q. I believe you got by the eighth grade and graduated at Auburn, didn't you?

A. Yes, sir.

Mr. Harris:
I can't hear.

Mr. Burr:
He said he graduated at Auburn.

Mr. Harris:
Auburn?

Mr. Burr:
Yes.

Q. I wish you, please, sir, would look at this picture that has been identified, the two of them I show you at once, the intervener's number 32 and intervener number 33, and tell the Court what those two places in the mine are.

A. This 32 is a picture looking down the manway from No. 1 hoodlum and 33 is down the manway about a couple of hundred feet below.

Q. The same manway?

A. Yes, sir.

Q. Now, in these two pictures were these two places in use at all as walkways prior to May 1, 1941?

A. Not for regular travelways, no, sir.

Q. Where was the regular travelway at that time?

A. The men went out of No. 2 prior to then.

Q. Just stopped using No. 1 as a passageway?

A. Yes, sir.

Q. Did you explain that to Mr. Wheeler when he was down there and tell him about that, or not?

A. I don't recall that, no, sir.

Q. All right, sir. Now, please, sir, examine No. 42 and state what was being done by the company at that time. I don't mean at the actual time you were there, but what is the occasion of those crossties and track being torn up?

A. Well, the track—there is only one working place beyond this and the track had been changed to come in from another direction and this old track was being removed for use elsewhere at the time.

Q. Do you know whether you explained that to Mr. Wheeler or not?

A. Yes, sir, we mentioned that.

Q. All right, sir. Now, are you familiar with this place here that is shown by that picture that has quite a good deal of water there?

Mr. Brodie:

What is the number of it?

Mr. Burr:

No. 41.

Q. Is that water there at that place as a usual thing, Mr. Jones, ordinarily?

A. No, sir.

Q. What did you find was the occasion for the water being there that day, causing that unusual amount of water?

A. A broken pipe line in the heading up above.

Q. Now, you have been through that place very, very often, haven't you, since you have been down there?

A. Oh, yes, sir.

Q. Under ordinary conditions and circumstances is that water there at all?

A. Not on the track, no, sir.

The Court:
Not what?

The Witness:
Not on the track.

Q. Up on the track?
A. No, sir.
Q. Now, then, I will ask you to look at Exhibit No. 43. Can you tell the Court about how long those steps had been there that appear in that picture?
A. Let's see; they had been there about a year and a half.
Q. All right, sir. Now, prior to the time those steps were built there what way did the men use to go to the place that they now use those steps for?
A. The biggest majority of the men went around there by way of No. 1 across the haul way before it came into this place.
Q. Do you recall at whose request those steps were built there?

Mr. Brodie:
We object, if the Court pleases. It is not in rebuttal of anything that has been offered.

Mr. Burr:
It is in rebuttal of the picture.

Mr. Brodie:
Are you rebutting the picture by pointing out—

Mr. Burr:
Sure. We are trying to show the conditions in the mine.

The Court:
Overruled.

A. The men asked that they be permitted to travel through this place.

Q. Did they authorize them to walk there?

A. Yes, sir.

Q. And since then do they use the steps?

A. Yes, sir, they are in use now.

Mr. Burr:

That is all I want to ask him

Mr. Brodie:

We have no questions.

Mr. Harris:

I would like to ask a couple of questions.

Cross Examination.

(By Mr. Harris):

Q. Do you know a man named Templeton?

A. Yes, sir.

Q. Was he here this morning?

A. Yes, sir.

Q. Did he come from Bessemer with you?

A. Not with me, no, sir.

Q. Did you take him back out to Bessemer a while ago?

A. Yes, sir.

Q. He was brought in as a witness here?

Mr. Burr:

We object to these questions, if Your Honor pleases.

Mr. Harris:

Well, there was a big ado about impeaching a man on the stand and inquiring about Templeton and I want to know where Templeton is.

Mr. Burr:

If Your Honor pleases, I resent those statements. I have tried mighty hard in this case to keep my head. Now, if he goes into that the next hullabaloo, if I raised one about Templeton, will be to show why I sent him back. I have never talked to him or had anybody else talk to him, but as soon as I found out he was a member of the union that Mr. Harris represents why naturally I didn't want him.

Mr. Harris:

That is all I care to ask him.

The Court:

Well, that concludes the testimony, does it, gentlemen?

Mr. Burr:

Yes, sir, that is all.

Plaintiffs close.

Mr. Cooper:

If the Court pleases, we understand that the evidence is closed and we do not wish to delay the case any more. We would just like to note for the record that some of the data requested and ordered produced by the Court was not produced by the T. C. I. and nothing, so far as we find, has been given us by the Republic Company. We got part of them yesterday.

Mr. Burr:

Yes, you got the map and I told you you could have them. You can have them right now. We don't care to extend the matter further.

Mr. Cooper:

I just wanted to note that.

The Court:

What good is it going to do to note that if you are not going to want it?

Mr. Cooper:

Well, we took up time—by request—time for each of these papers, but we haven't got them.

Mr. Burr:

All right, we have the Republic figures for you. Do you want them? They have been right here for you. All right, sir, there you are.

The Court:

Are you showing him the other papers?

Mr. Burr:

Sir?

The Court:

The other companies, Mr. Burr?

Mr. Burr:

I have given him both the Tennessee and the Republic.

Mr. Cooper:

Call Mr. Butler.

INTERVENER'S REBUTTAL EVIDENCE.

3324 JOHN BUTLER, having been previously sworn, was recalled to the stand.

Direct Examination.

(By Mr. Cooper):

Q. Will you look at this photograph identified as Intervener's Exhibit No. 41?

The Court:
Is this John Butler again?

Mr. Cooper:
Yes, sir.

The Court:
Surely this is not in rebuttal. You have put them in the case, the photographs.

Mr. Cooper:
On account of the statements made about this photograph I would like to ask him two or three questions.

The Court:
What photograph is that?

Mr. Cooper:
That is Intervener's No. 41, about which Mr. Jones was testifying a while ago.

Mr. Burr:
It seems to me if you had anything further there you should have put it in on your main case.

Mr. Cooper:
Well, it was admitted without objection, that it was shown that picture was incorrect. Your witness testified that our picture was incorrect and I would like to rebut that.

Mr. Burr:
No, no. All of your direct testimony was by Mr. Wheeler of his knowledge of the place. I don't think you can impeach Mr. Wheeler. If anything is brought out that is different I will probably have to get a mine foreman, if anything different is brought out. He presented the picture and I answered it.

Mr. Harris:

There is more than that, if I may interrupt. A man got on the stand and said the condition represented by that picture didn't exist before May 1st.

Mr. Cooper:

That was Mr. Jones.

Mr. Harris:

It has nothing to do with the admissibility of the picture, if they raise that point that the condition did not exist on May 1st.

Mr. Burr:

This is a different picture altogether. They presented that picture and Mr. Wheeler testified that Mr. Jones, when he was down there—I asked him if he didn't tell him—I asked Mr. Wheeler if Mr. Jones didn't tell him that that arose from a temporary breakdown of a pump, and he said no, and I put Mr. Jones on about that, and now Mr. Butler has come back about the same thing. It seems to me that we ought to have an end of it some time.

The Court:

It seems to me that you have already had your witness to identify that picture and testify about it, your witness.

Mr. Cooper:

Yes, that is true, Your Honor. I would like an opportunity to reply.

The Court:

I sustain the objection. Does everybody rest in this case?

Mr. Cooper:

If the Court pleases, might we make an offer of proof as to what Mr. Butler would testify at this point where you

have sustained the objection to his testifying in reply to Mr. Jones?

The Court:
All right, sir.

Mr. Cooper:
We would offer to prove by Mr. Butler that he worked beyond this point shown by the photograph for a period, I believe five years prior to May, 1, 1941, and passed that point daily and was accustomed to seeing water in the pond shown by the photograph daily there on his trips back and forth to his place

Mr. Burr:
All right, sir, if that was offered we would have fifty men to prove the contrary.

The Court:
Overrule the objection—I mean I sustain the objection.

Mr. Harris:
Your Honor asked if everybody had closed. So far as I am concerned I am closed.

Mr. Burr:
We are through:

Mr. Cooper:
We are through:

All parties close.

The Court:
Everybody has closed. I will convene tomorrow morning at nine o'clock, when the argument of Plaintiffs will begin promptly at nine. Court is adjourned until nine o'clock.

(Thereupon, at 2:45 P. M., July 31, 1941(Court adjourned until 9:00 A. M., August 1, 1941.)

9:00 A. M., August 1, 1941.

Court met Pursuant to Adjournment.

The Court:
I am admitting these exhibits that I reserved on.

Mr. Harris:
What exhibits?

The Court:
17, 18 and 20.

Mr. Smith:
These Attorney General's rulings?

Mr. Burr:
Yes.

Mr. All:
And that Bulletin 13?

Mr. Burr:
That is already in. You mean—what bulletin are you talking about, 13?

Mr. All:
13.

Mr. Burr:
That has been in all the time.

Mr. Harris:
I believe we have an objection and exception to each one of them?

The Court:
Yes.

Mr. All:
Judge, I have some tickets here—I thought I had them. My understanding was that Your Honor sustained objection to some of these Woodward Iron Company tickets.

The Court:
I don't remember.

Mr. All:
I don't care anything about them one way or the other.

Mr. Harris:
What was that, Mr. All?

The Court:
He said it didn't matter one way or the other about the tickets.

Mr. All:
The Woodward Iron tickets, the technical pay checks. It doesn't make any difference to me.

The Court:
About the Woodward Iron Company?

Mr. All:
Yes, sir. I think Your Honor sustained objection to them.

The Court:
I think I did.

Mr. Harris:
The Woodward Iron Company is not in the case anyhow.

Mr. All:

But you can just make it as it is, Judge. I don't care anything about it.

Mr. All:

If the Court pleases, I reckon we are all glad we have finished the testimony and have gotten down to this point, and owing to the fact that we have spent the time that we have and gotten out into a good many fields in the testimony, I want to spend just a little time getting to the point as to what the issues are.

It is clear from the pleadings, including the complaint of the several plaintiffs, the answer of the representatives of the unions, the intervention and answer of the administrator, the pretrial hearing and the theory upon which the case has been tried—I say it is clear from these matters what the issues are. It is clear that it is true that this act was passed in 1938 and became effective, I believe, on October 24, 1938. The evidence and the pleadings disclose that in March, 1941, after having had investigations and hearings at two points in the country, in Salt Lake City and Birmingham, that the administrator rendered his opinion which has been called the portal-to-portal opinion, the effect of which was that in the metal mines, including the ore mines in this country, the travel time, that is that part of the travel time that has been from what is called portal to portal or collar to collar, in addition to the time spent at the productive work, shall constitute work time.

I say it is perfectly clear and evident from the pleadings and evidence in this case that that was the thing that precipitated the claims or the threatened suits of the ore miners and precipitated the institution of these suits in this case. So that we clearly have the question here as to whether or not this travel time as such comes within the workweek as the workweek is defined in the Fair Labor Standards Act.

Now, in the complaint, if the Court pleases, after setting up the facts, the plaintiffs set down this proposition—I am reading from a typical bill, if the Court pleases—there is no use to read all of them—

"That in following the wage and hour schedule and procedure as hereinbefore in Section II hereof set out, it has fully complied with the provisions of the section set forth and that in working its employees in and about their actual working places eight hours per day for five days per week, it is not employing said employees for a workweek longer than forty hours.

"That no part of the time spent by its underground employees in the bathhouse or in going from and to the bathhouse, to or from the portal, or to and from the underground man loading station from or to the portal, or to or from the actual working places of the employees from or to the underground man loading station constitutes a part of the workweek.

"Otherwise stated, the plaintiff asserts that the Congress intended the word 'workweek' to be construed as meaning the time actually spent by plaintiffs' underground miners in or about their actual work places and did not intend to include as a part of the workweek the time spent by such underground employees in being transported or walking to and from the places where they actually work."

And then seeking the declaratory judgment in the petition and prayer, the plaintiff propounds these questions for answer by the Court:

"Has the plaintiff, in following the work schedule and procedure as hereinbefore in Section II hereof set out, complied with the provisions of Section 7 of the Act?

"Did the Congress in the enactment of Section 7 of the Act intend that the workweek should consist of the time actually spent by the underground employees of the plaintiff working at and around their usual working places?

"Did the Congress in the enactment of Section 7 of the Act intend that the workweek of plaintiff's underground employees should include any portion of their time spent in being transported or walking to and from their usual working places and while not engaged in any physical work or service for the plaintiff?"

Then the other question: "When does the workday of plaintiff's underground employees begin, within the meaning of the Fair Labor Standards Act?"

"Are the assertions of the plaintiff as herein set forth as to the intentions of the Congress in the use of the word "workweek" legal and correct?"

And then the prayer of the bill is the determination of whether or not the travel time from portal back to portal is a part of the workweek.

Those are the questions that are propounded in the complaint of the plaintiffs and those are the questions which we think are before the Court.

The Court:

That is the real issue.

Mr. All:

That is the real issue in the case. But what I am trying to get at is a little more particular, if the Court pleases, is in the answer of the defendants. They say here after the pretrial hearing by amendment to the answer,

"For a further separate defense, these defendants allege that under the Fair Labor Standards Act of 1938 the workweek for the employees of the plaintiff engaged in production of goods for commerce includes all the time when a miner reports for duty as required at or near the collar or portal of the mine and ends when such miner reaches

the collar or portal of the mine at the end of the shift, and all of the time spent on the surface in obtaining and returning lamps, carbide and tools, and checking in and out."

And then it alleges that the men had never been compensated for the travel time as such.

Then the intervener comes, in, if the Court pleases, and alleges that the interpretation of the administrator of 7(a) of the act is a correct interpretation.

Now, then, we come to the pretrial agreement on the pretrial hearing, and I want to read the appropriate parts of that:

"It was agreed by all of the parties that the following are all of the issues in controversy in this cause:

"a. What constitutes the working time which makes up the workweek of the underground ore mining employees of the plaintiff within the meaning of Section 7 of the Fair Labor Standards Act of 1938."

And then further defining that, (1) subhead:

"(1) In reference to 'a' above, the plaintiff contends that such workweek does not include that portion of the time spent by the underground ore mining employees in being transported or walking to and from their usual working places.

"(2) In reference to 'a' above, the defendants contend that the workweek covers all time from portal to portal as announced in the opinion and report of the Wage and Hour Administrator under the Fair Labor Standards Act on Farch 23, 1941, and also includes aggregate of the time spent on the surface in obtaining and returning lamps, carbide and tools and in checking in and out."

Then it goes on that,

"If the Court determines issue 'a' adversely to the plaintiff, the Court will further determine whether or not the defendants and other underground iron ore employees who are now or who hereafter may become parties are entitled to recover against the plaintiff, and if so, how much."

And then it provides for the defenses to the controversy.

What I am driving at is this, if the Court pleases: That the issue in this case involves an inquiry which is pertinent to the situation of all of the underground employees, not one or any group or any other group, but simply is the travel time work time so as to come within the meaning of the word "workweek."

We think, if the Court pleases, that we can say that the question in this case is whether or not Section 7(a) of the act contemplates a portal-to-portal computation of time involved in the workweek.

Now, we have spent the time which we have spent here in arriving at what the word "workweek" means as applied to underground ore mine employees who have travel time. I think that is the sole issue.

Now, when Congress passed this Fair Labor Standards Act Congress did not say that this shall apply to an ore mine. It did not say that it applies to a coal mine, to a limestone mine, to a quarry, or even to a mine. Congress did not say whether a workweek covered surface operations or underground operations. It simply said this—and, if the Court pleases, the whole gravamen of that act is this— I think allusion has been made in the course of this trial to the fact that a great part of it was intended to relieve a sweatshop situation, underpaid people, and the structure of the act is to relieve obstruction to interstate commerce by requiring those people to be paid a living

wage. That is the foundation of this act and all the act provides.

I want to go into a somewhat brief analysis of the act. This act provides just three things: One, a minimum wage, the next a maximum week, maximum hours of work per week, and then Section 7(a) provides that no employer shall employ its employees to work more than forty hours —forty-four first, forty-two and then forty—in any workweek. There is no absolute prohibition that you cannot employ them to work that workweek exceeding forty hours, we will say—I will use that illustration—without paying them time and a half for all excess over the maximum hours. That is the whole act. There is nothing else in it.

I want to read this in view of the definition of the term that is used. The word "employ" in this act, if the Court pleases, as defined under (g), includes—"employ"—quoted "employ"—includes to suffer or permit to work. I want to say that because I want to read Section 7(a) as defined:

"Maximum Hours—No employer shall, except as otherwise provided in this section, employ any of his employees who is engaged in commerce or in the production of goods for commerce—

We will read that this way:

"No employer shall, except as otherwise provided in this act, suffer any of his employees who is engaged in the production of goods for commerce for a workweek longer than forty-four hours during the first year from the effective date of this act—of this section." Then forty-two and then forty-one.

The Court:

Forty.

Mr. All:

Forty, yes. Now, the word "workweek", if Your Honor pleases, is not a new word in legislation. It has been used before. "Work time" has been used before. "Eight-hour day" has been used before. "Maximum hour a week" has been used before. This is not the first time.

I think, if the Court pleases, that we can make this a little clearer by following this sort of procedure in argument. Just put the congressional shoes on and place ourselves in the Congressional Hall, passing this act, the objective being, we may say, to relieve unemployment. We read the policy of the act in the caption. We know what the policy of the act is. But we are doing two things here in Congress. We are fixing a minimum rate of pay per hour and we are fixing a maximum workweek. Not as a police measure, but we are fixing it and providing that the employer shall not permit an employee or employees to work for over forty hours a week without paying them time and a half overtime. And we simply use the word "workweek" when we sit there in Congress, if the Court pleases, and use the word "workweek" with the people to whom that act must apply engaged in all sorts of business, some underground and some on the surface.

First, I ask the question, if we were passing that act as you say that we consider the question of making a distinction between surface and underground employees, I challenge a conclusion, I challenge an argument that people when sitting in Congress and use that language that anybody could say that we passed an act to apply to the surface and not to underground, or apply to underground and not to surface.

Now, if the Court pleases, when we sit there in Congress like that, what are we charged with notice of? I think the principle has been alluded to two or three times in the course of this trial that everybody is presumed to know the law. During other times they didn't know it, not supposed to know it. But we all know it, it doesn't make

any difference who we are, there is that sort of presumption.

But we can say this, if the Court pleases, that Congress, whether they actually know it or not, they are presumed to know it. They take the oath that they will not violate the Constitution of the United States.

What does that mean with the legislators? That we won't pass an act if we know it that delegates legislative power. We are not going to leave—we cannot do it—we cannot leave it to an administrator or somebody else to decide the policy. We have got to declare that policy.

They are also chargeable with another thing. They don't always do it.

The Court:

Congress? The industries to be regulated are so numerous that Congress couldn't undertake it.

Mr. All:

Well, I am going to get to that, if the Court pleases.

The Court:

Of course, delegated power may properly be conferred.

Mr. All:

Well, it has got to be very germane to the power—somebody by some product of reasoning or something. Personally, I think, if the Court pleases, we have gone far afield in that sort of thing, and I presume Your Honor does too. And there are lots of people who do, but they have a process of reasoning—there has never anybody said yet that Congress can delegate leglislative power.

Now, I am getting this point, however: Congress knows that they must use language which is clear enough to be reasonably understood. Significance, therefore, if the Court pleases, is to be placed on the proposition that Congress merely used the word "workweek." Now, I ask

this question: You have got a question here of what that "workweek" means. That is our question as applied to particular businesses and to particular situations.

Now, very often a legislature will do this: They will pass an act with the knowledge, presumed knowledge, of customs, contracts, situations. But if they are going to change them, common sense dictates that they shall clearly indicate a revolutionary change, else the act shall apply to and fit established customs, usage and relationship; it shall apply to that and not in revolutionary destruction of it. That is one of the points that we have in this case.

Now, if the Court pleases, as I say, we are sitting in Congress and we use the word "workweek." What must you say are some of the considerations that Congress had in mind? Forty-hour workweek means eight hours of work a day. Have we ever legislated and used language like this before? Have we ever done anything like this before? What language did we use in some other legislation, and how was that language construed? How was that law administered, and how did the people treat it? Congress is bound to have had that before it.

Now, we have here, if the Court pleases—here is an act, an old act passed in 1892. It is the Hours of Labor on Public Works, U. S. C. A., where we find it. It is Chapter V, page 146. Congress said in this act:

"The service and employment of all laborers and mechanics who are or may be employed by the Government of the United States or the District of Columbia, or by any contractor or subcontractor, upon a public work of the United States or of the District of Columbia, and of all persons who are or may be employed by the Government of the United States or the District of Columbia, or any contractor or subcontractor, to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United

States or of the District of Columbia, is limited and restricted to eight hours in any one calendar day."

That is the eight-hour day. Here is a part of the Reclamation Act of 1902:

"Upon the determination that any irrigation project is practicable, the Secretary of the Interior may cause to be let contracts for the construction of the same, in such portions or sections as it may be practicable to construct and complete as parts of the whole project, providing the necessary funds for such portions or sections are available, and thereupon he shall give public notice of the lands irrigable under such project, and limit of area per entry, which limit shall represent the acreage which in the opinion of the Secretary, may be reasonably required for the support of a famliy upon the lands in question; also of the charges which shall be made per acre upon the said entries, and upon lands in private ownership which may be irrigated by the waters of said irrigation project, and the number of annual installments in which such charges shall be paid and the time when such payments shall commence: Provided, that in all construction work eight hours shall constitute a day's work, and no Mongolian labor shall be employed thereon."

In passing—I am getting at this case, if the Court pleases—as I stated just now, when Congress passes an act which has its own history before it with respect to similar language or substantially similar language and the way that has been treated—because people have a right to presume that they did not intend any change, and there is some obligation on the Congress to express itself.

Now, it was held—I mean the administrative officers chargeable with the enforcement of that law adopted the view of eight hours and that meant eight hours of effective work. The question here—this is with reference to

the Reclamation Act here, and this is the opinion of the Attorney General:

"The letter of the Director of the Geological Survey states that it is dangerous both to life and property to do blasting during the regular hours of labor when the men and the steam shovel are at work; and that it is very necessary to keep the powder men at their posts after the regular working hours in order to make their final preparations for shooting the blasts. The letter also states that it is necessary to clean up the shale thrown down by the blasts upon the tracks before regular working hours the following morning, in order that the force of the cuts and steam shovel shall not then be standing around idle until the tracks can be cleaned. The same reason for work before or after the regular hours applies to the necessary shifting of track, shoeing of horses, repair and cleaning machinery, and to other labor essential to the promptness and efficiency of the regular day service of the men and machinery. It is also suggested that if water for domestic use of the camp may not be hauled after regular working hours by some of the teams on the work, it would be necessary to keep an extra team for this purpose only, at much greater cost than 'by putting in a little time by extra work;' and that the teamsters hauling supplies, cooks and 'flunkies' (by which I understand scullions or assistants to cooks are meant) must put in more than eight hours per day."

In addressing himself to these questions the Attorney General said:

"But I think that the eight-hour day means eight hours of effective labor."

The Court:

What is the date of that?

Mr. All:

This was in 1906.

"But I think that the eight-hour day means eight hours of effective labor, and therefore so far as your questions present the case of laborers and mechanics who, from the exigencies of the situation, must wait until after the completion of the regular day to finish their work, I am of the opinion that the blasting, cleaning of tracks, repairing machinery, and all other similar work essential to prompt and continuous service in the regular day may be legally done before and after the regular hours. To be more specific, laborers and mechanics who are called upon to do two hours work, for example, before or after the regular day begins or ends that the law is applied if they are only called upon to work six more hours during the regular hours. The law gives no countenance to the conception that the interval between the beginning and end of the regular day is a controlling convention which excludes labor at any other time and entitles workmen to stand around idle if their services can be fully availed of during that interval. The law limits the working day to eight hours, but it does not prescribe in what hours of the day the work shall be done. Practically, no doubt, there should be a real necessity, as is obviously the case here, for working during other hours than the regular day; and there should be scrutiny and care lest abuses arise which, however, the right of contract, subject to law, between laborer and employer ought to prevent.

Mr. Harris:

Mr. All, would you mind giving the citations as you read? You inadvertently read and we don't know what you are reading from.

Mr. All:

Well, I was reading from the paper introduced in evidence, entitled--Plaintiffs' Exhibit 16 is what it is.

Mr. Harris:
All right.

Mr. All:
And the other, the next is Plaintiffs' Exhibit 17 where the same provisions of the same act arose in 1908 and opinions to the same effect were rendered.

In the act of March 3, 1931, Section 26a provides:

The Court:
What code?

Mr. All:
This is in U. S. C. A., Title V, Section 26a and Section 29a. Section 26a reads this way:

"On and after March 3, 1941, four hours, exclusive of time for luncheon, shall constitute a day's work on Saturdays throughout the year."

That is the pertinent part of that section. 29a:

"Each head of a department or independent establishment shall issue general public regulations, not inconsistent with law, setting forth the hours of duty per day and per week for each group of employees."

Pursuant to that latter section thirty-nine hours of work per week were prescribed, thirty-five for the first five days in the week and four hours for Saturday. The question arose with respect to employees, some, if not all, of whom were doing clerical work at Angel Island and they reported and were taken over from San Francisco to Angel Island on Government boats. They had some trouble about their reporting late and about the question of travel time and the matter of rescheduling the boats so that the thirty-nine

hours of actual effective work at desks could be accomplished, and it was worked out by rearranging schedules so that the people could report within time to catch the boat and the boat should run at such hour as that those people would arrive at their desks for effective work of thirty-five hours during the first five days and four hours on Saturday. Travel time, they say, could not be paid for. Travel time was not paid for. Travel time was excluded.

I won't read all of this correspondence, if the Court pleases. This is Plaintiffs' Exhibit 45. But the correspondence between the Comptroller General and the Attorney General set out substantially in some more elaboration than what I have stated, and the Attorney General's office, the administrative assistant to the Attorney General, in reply, in the course of that correspondence, writes the Comptroller General this:

"Reference is made to your letter dated August 20, 1940 (A-44009), wherein you call attention to previous corresponence with the Secretary of Labor to the effect that the employees of the Angel Island Station of the Immigrant Naturalization Service have devoted fewer hours of duty than that of other employees in the same locality. You are advised that steps are being taken by this department to establish standard office hours at the Angel Island Station.

The Court:
That is October 2nd?

Mr. All:
October 3, 1940. This is the last letter.

The Court:
What exhibit is that?

Mr. All:

That is Exhibit 45 that I have just read. So there, if the Court pleases, with respect to employees working for the Government where a thirty-nine-hour week was prescribed, thirty-five hours on Monday, Tuesday, Wednesday, Thursday and Friday and four on Saturday, they exclude travel time.

The Court:

That is from their home to the place of work?

Mr. All:

Travel time from San Francisco, where they catch the Government boat to go to the island. There was no question raised, if the Court pleases, on the question of coming from home.

The Court:

No, I mean in the prior time.

Mr. All:

From the place where they caught the boat until they got over to their desks. Respecting the same letter the Department of Labor expressed themselves on the question this way:

"The District Commissioner has been instructed to readjust sailing schedules so that employees may be at their designated posts of duty for the required number of hours each day or be charged with the necessary annual leave to cover absences during the work period in accordance with the provisions of the vacation and sick leave act of March 14, 1936, and executive order of July 9, 1936."

And, of course, that executive order is the order that set up the thirty-nine hours, thirty-five hours and four hours for Saturday.

Now, if the Court pleases, let's get the force of that. The force of that is that Congress in passing—and I want you to bear with me if I happen to repeat, because there are two or three questions here that we think are really pivotal questions in this case—I say the importance of that is this, and, Your Honor, if you were sitting as a Congress or any of us sitting as a Congress where you had used the word "service" or where in the acts, in regulations in pursuance to acts, "workday," "workweek," "hours of work," had been used in the history of our legislation and we are passing an act for nation-wide application without reference to surface ore mines or coal mines or anything, just overtime for over forty hours a week, wouldn't our mind hark back? We certainly would give deep consideration to why we passed that act and where it is going to apply. That is inescapable and, if the Court pleases, Congress knew or must know that in this matter of work many, many, many employees had travel time. They must have known. These matters teach that travel time is involved in just what I have been reading. They must have known, if they were men of any intelligence at all—and they are—not only that travel time was involved in many industries, but they know that it is involved in practically all of the great mining industry of America, that practically without exception the great mining industry involves travel time with nearly all of their employees.

All right. Now, when I am sitting as a Congressman, say I am just going to say a workweek, when I know that in certain large, tremendous industries "workweek" involves travel time and in other it does not, when I say I am not going to use anything but "workweek", doesn't it mean that I am going to use "workweek" like it has been employed before, doesn't that mean that I mean "workweek" that is consistent with established practice and contracts of great industries?

Now, if the Court pleases, I want you to understand I am making allusion here to the ruling and I don't mean to be

taken as rearguing any point of admissibility of evidence. Now, I want you to understand that I am not doing it for that purpose. I am not rearguing it, but I am stating something that is common knowledge with this Court and certainly a matter which Congress knew. Some of the biggest industries in this country are mining industries. We have got generally agriculture, we have got oil, we have got various kinds of minerals, and right now—and I am not using this on account of our enthusing defense contracts. I don't mean that. I am using it as an illustrative proposition. If this country possesses predominant strength in resources over its requirements I would say that it largely les in the wealth of our mineral resources. They are tremendous. I want to say this: Iron and steel are important; coal is important.

I am not arguing that from an economic standpoint. I am arguing it from the standpoint of what Congress knew of the line that they had to draw when they were passing this act. The coal mining industry, the ore mining industry, the gold, the silver, Congress must have known, and I do not do violence when I say that Congress did know, Alabama Congressmen knew that of my own knowledge, and Michigan and Minnesota and Colorado and the people around the Great Lakes, they knew about this travel time.

Tell me that Congress just used the word "workweek," that it did not mean for that to be consistent with the way that they had treated travel time by custom and by established contracts! Tell me that if Congress should not have known that they ever intended to disturb those customs and those practices they should not have done it—they used "workweek" like similar language and similar import—did not use an interpreted view.

Now, as I say, without any argument—suppose we say this, if the Court pleases, suppose they say in this act—had gone just a little further and this much further and said this act here applies to underground travel time. All

right, suppose that is the question. Suppose we eliminate surface overtime and inquire whether or not "workweek" includes travel time underground. All right. Now, if it includes underground and they intended that, don't you know Congress when they looked out over the national landscape to decide what this act was going to do and who it was going to effect and where it was going to apply, took into account the vast coal deposits in this country and the established customs and practices of coal mines and ore mines and all other mines—they couldn't help but do it—they cannot draw a distinction between travel time anywhere and travel time somewhere else.

Mind you, if the Court pleases, we are not trying an individual case where an individual might have done some work which is not germane or part of the custom of travel time. But when you get into that you are getting into trying individual cases. I am talking about the principle of portal to portal. They had to know that.

Now, when you sit in the shoes of Congress you are presumed to look out on the field that Congress must have looked out on. Now, if the Court pleases, here is something that I think is a matter of judicial knowledge. And again here I want to state this: I don't want Your Honor to think for a minute that I want to argue anything that Your Honor has held not to be evidence. I don't mean it that way, and I don't want Your Honor to take it that way. I am just arguing the principle of legislative construction.

The NRA of course, the Court knows judicially and actually as we do the broad—I don't mean the details of it necessarily unless your practice drew you into certain kinds of vocations under it. I don't know all of it and I don't reckon any of us do, but we know generally what the NRA was. We know what the policies of the act were. We know the reason it was invalidated. It is. I think we know what the President did under it. I think that in offering the Bituminous Coal Code he could not have done

it. But I think it is pertinent to this case. I think this Court takes judicial knowledge of that act and the former administrative determination and enforcement of that act.

This act, this NRA, provides for certain matters to be handled by mutual agreement and it has got this sort of provision where that is not done: After speaking of mutual agreements for effectuating the purposes of the act it is provided in subsection—subparagraph (c) of Section 7:

"Where no such mutual agreement has been approved by the President he may investigate the labor practices, policies, wages, hours of labor, and conditions of employment in such trade or industry or subdivision thereof, and upon the basis of such investigations, and after such hearings as the President finds advisable, he is authorized to prescribe a limited code of fair competition fixing such maximum hours of labor, minimum rates of pay, and other conditions of employment in the trade or industry or subdivision thereof investigated as he finds to be necessary to effectuate the policy of this title, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of section 3."

Now, without going into, without reading the details of it, the language, the policy of this act of the NRA, the declared policy, is very similar to the policies of the Fair Labor Standards Act. Neither act, if the Court pleases, justifies any administrator or any Court just to permit something and do it. What we are after here is arriving at what Congress did and what we will do.

I think this is a matter in which we are interested, and I am just calling it to Your Honor's attention for what it is worth. I do not mean to get into the field of evidence. But pursuant to the sections I just read you the President established the Bituminous Coal Code. The Bituminous

Coal Code provided for—just like we have here—it provided that the workweek should be at the usual working place, like our custom, like our practices, like our contracts and like that practice that existed throughout the field in which underground travel time was involved. Working place to working place was not disturbed and has been adhered to.

Now, prescribing that work time shall be from face to face—I mention that for this reason, if the Court pleases, that it is one of the things that Congress must have had in mind when it gave consideration to the application of this act—could we say that Congress meant what it had never meant before by the use of similar terms? Can we say that it meant something different from the history of administrative interpretation of acts using substantially similar language? Must not we say when we sit as Congressmen here a few years ago that passed the NRA and under the NRA the code set up providing that work time should be from face to face, shouldn't we know that the people who are enjoined to apply the Fair Labor Standards Act, shouldn't Congress know that their minds would run back to the history of other legislation? Shouldn't we give some notice to somebody that we are going to revolutionize, we are going to do something that never has been done before, we are going to do something that somebody will change the meaning of the word from the accepted meaning to the administrative meaning? Doesn't that mean that it will be applied the same way? That is, I think, the force of that particular proposition.

Now, if the Court pleases, this sort of thought has been imputed to Congress, that if Congress passes an act and uses language or passes an act to the effect or similar in character to an act which has been passed by a state and construed by that state, congressional acts have been interpreted not to be counter to the interpretation that has been put on a state statute unless the contrary intention is shown.

I read Your Honor from the case of *Interstate Commerce Commission vs. Baltimore & Ohio Railroad*, 145 U. S., 263. This is a case which involves the matter of discriminatory rates under the Acts of Congress. The matter came up in this way, that a railroad was prosecuted for selling block tickets, party tickets, by which a number of people rode on one ticket and in that way they got a reduction in fares, and it arose in such a way as to come within the general antidiscrimination clause which they are chargeable with enforcing, and the question was whether or not under the interpretation of that act it could be broadly said to cover it, whether the Baltimore & Ohio Railroad had violated the act or was guilty of illegal discrimination. The Court in addressing itself to that question said this:

"If it be so, then, under state laws forbidding unjust discriminations, every such ticket issued between points * *"

What he means by "If it be so" is, if this were illegal discrimination.

"If it be so, then, under state laws forbidding unjust discriminations, every such ticket issued between points within the same State must be illegal. In view of the fact, however, that every railway company issues such tickets * *"

In other words, that is the custom and practice for every railroad to issue such ticket and they had been issuing them in the face of this act.

"In view of the fact, however, that every railway company issues such tickets; that there is no reported case, state or Federal, wherein their illegality has been questioned; that there is no such case in England; and that the practice is universally acquiesced in by the public, it

would seem that the issuing of such tickets should not be held an unjust discrimination or an unreasonable preference to persons traveling upon them."

A reading of the case will show this, if the Court pleases, that they look to the fact of acquiescence in continued practice by railroads to issue this sort of tickets, they were discriminatory in a way, but the practice acquiesced in, the attitude of the enforcing officers and the state laws—there were state laws all over the country of similar import—that there was no report of any state involving unjust discrimination, and that that was of controlling importance in the interpretation of this statute.

In other words, we have got two things: That these tickets were not particularly dealt with; that they were not particularly dealt with and the custom and practice was established and that state laws with similar provisions, so far as the Courts were concerned, there was no evidence of convictions and prosecutions under those laws. We have got those two things as entering into and controlling their decision on the legislative intent as to whether the antidiscrimination act covered the issuance of such tickets.

Now, if the Court pleases, to apply that proposition, there are no cases under state statutes which include travel time in work time. It is excluded where not expressly included. That is another consideration the Court must have had. If there was some statute which did not expressly provide that work time, workweek, or service or similar words included travel time and where under such decision even though there were statutes prescribing hours of work, or where those statute did not expressly include travel time, there are no cases which hold that it includes it, or mere work time includes travel time, Congress knew that when they passed this act.

It has been held necessary to expressly include travel time in order for travel time to be included. If the Court pleases, this principle of statutory construction that I am

undertaking to talk about represents the unanimous view of the Courts all over this country. I want to call Your Honor's attention to this—merely a matter which does not involve this particular question but involves a question of statutory construction as to whether or not the prohibition statutes apply to purchasers.

"Section 3 of Title 2," and I am reading here from the case of United States versus Farrar,—

The Court:
Against who?

Mr. All:
United States versus Farrar, 281 U. S. 624.

The Court:
624 is the page?

Mr. All:
That is where the case begins, on page 624. It is a short opinion. I am reading from the latter part of the opinion.

"Section 3 of Title 2 of the National Prohibition Act makes it unlawful for any person to 'manufacture, sell, barter, transport, import, export, deliver, furnish or possess any intoxicating liquor except as authorized in this Act,' but provides that 'Liquor for non-beverage purposes and wine for sacramental purposes may be manufactured,'" and so forth.

This case involved the prosecution of a purchaser, and the Court, speaking through Mr. Justice Sutherland, said this:

"Since long before the adoption of the Eighteenth Amendment, it has been held with practical unamimity

that in the absence of an express statutory provision to the contrary, the purchaser of intoxicating liquor, the sale of which was prohibited, was guilty of no offense. And statutes to the contrary have been the rare exception. Probably it was thought more important to preserve the complete freedom of the purchaser to testify against the seller than to punish him for making the purchase," citing a case. "However that may be,"—here is the important part. "However that may be, it is fair to assume that Congress, when it came to pass the prohibition act, knew this history and acting in the light of it deliberately and designedly omitted to impose upon the purchaser of liquor for beverage purposes any criminal liability.".

So, if the Court please, and I am not undertaking here—I am not—

The Court:

Go ahead; go ahead.

Mr. All:

I am not undertaking, if the Court please, to exhaust the authorities on this subject. Before going into an argument on some of this evidence, I am simply citing some authorities to show the things which actuated Congress to show why we must say that Congress used the word "workweek" to apply to, to operate upon conditions as they existed, and not to destroy the conditions. These cases are all to that effect; first, that the legislative history with respect to similar legislation, that the interpretation of this Act, and other acts where words of similar import were used, the custom of the people and the industry upon which this act would operate in this case is controlling.

I am not going into coal. I am going to stick to ore for the purpose of this argument. We say that the universal practice in the ore industry is non-portal-to-portal. There is no ore mining practice of portal-to-portal. The practice

is face-to-face. Now, it wouldn't make any difference particularly, if it were not all absolutely face-to-face, but it is not portal-to-portal, and so far as this record shows, and as far as the facts are, because there isn't any evidence to the contrary, the long-established custom, practice and usage, and where contracts existed, they all followed that long established usage; those contracts followed the usage and provided for face-to-face working time,—that work shall commence at the face and end at the face.

Now, we know, from the consideration of the oral testimony that has been absolutely established in Alabama,—no question about it. The long-existing, established custom and practice before and after contracts began to be made was face-to-face, and Congress didn't intend to disturb these arrangements. That is in Alabama. But I am going to demonstrate that is true also in the Lake Superior Region that mines 80 per cent. of the ore produced in this country. We have in this record, if the Court please, evidence of a consistent, universal practice or custom of treating work time as face to face, and Congress didn't mean to disturb that practice.

The Court:

Were there any hearings before the committees of Congress with reference to this bill as to mining companies?

Mr. All:

You mean with particular reference to mining Companies?

The Court:

Yes.

Mr. All:

I haven't found it,—nothing with particular reference to mining companies.

I want to say this, if the Court please, because my time is drawing to a close. I want to say we have the universal

practice of treating work time as beginning at the face and ending at the face. We have shown the contracts. We have shown the contracts as showing the custom. The custom has not been different since the contracts started.

We have in this case some evidence beginning in 1934 when the Smelters Union was first organized of the Union suggesting a half time arrangement, half employee and half company time,—some time maybe nothing was suggested and sometime may be more, but it was all resolved by the continuation of the work. That is what we are interested in,—not what somebody claims.

We spent a good deal of time on this question: As to whether or not, so far as the T. C. I. was concerned, and may be Sloss, somebody said that the Union had asked for a six hour day, and one man said they asked for a six hour day and travel time both ways, and Mr. Anderson said he didn't remember anything about the travel time part of it, but they asked for a six hour day.

Now, suppose they did ask for it. These gentlemen are treating the question as if somebody who didn't comply with every union request had done something wrong and such refusal to comply with a union request as being a reflection on the employer. That is not true.

We have in this case this evidence too: They say—I can't anticipate them except by some questions they asked, —Isn't it true with respect to Sloss Company, with respect to the Tennessee Company, that you didn't have but one formal contract where you recognized the Union as the bargaining agent? If there had been no union it would have been the same. It isn't any more encumbent upon the employer to agree with the union than it is encumbent upon the union to agree with the employer. This act does not say anything about a union. It is a question of what the established practice was. As I say, in passing, I don't think in this case the question of whether the union asked for half way on company time or what not has got anything to do with the facts and does not disturb the

established custom if the matter of negotiation resolved into a face-to-face contract and the men were paid that way.

And all the evidence in this case, all the employees in this case testified that the custom of not paying traveling time was consistently followed throughout each one's own experience. It is an established custom.

This is significant, however, if the Court please: That after this act was passed and until this portal to portal was agitated by the Administrator,—after this act was passed, contracts were made from face to face and employees were paid from face to face. We introduced, if Your Honor please, the testimony, the typical testimony, and the testimony from the stand bears it out,—they knew what the practice was. Each and every witness testified to that effect, and when they signed their receipts for year after year, it showed it wasn't a company practice, that it was a mutual practice, well understood by all, and there can't be any basis for anybody saying that it wasn't understood. Reid Robinson, the International President, was here on one or two occasions; Coles was here, Pressman, the general counsel, was in some of these negotiations, and they never changed it.

If the Court please, with respect to the Western country, you will remember we read over Mr. Swanson's deposition, only one of them, as a sort of typical evidence, and we introduced the other depositions without reading them, and there were quite a number of other witnesses. One of the other witnesses from the West was a man named George Michael Burck of Ely, Minnesota, and he worked in the mines along the Vermilion Range; he worked for the Oliver Iron Mining Company at Ely, Minnesota, in the Pioneer Mine and the Sibley Mine. Bear this in mind, if Your Honor please, the universitality—the universality in ore mines of this established custom. This testimony is not testimony we took. It is testimony the Administrator took and we have introduced all of it and it shows clearly that

the practice there is the practice here. The little chores of tool carrying has been considered as being treated as a part of the traveling time, and this man Micheal Burcke was asked this question:

"Would it be correct to say that during your eight hours you were at the face of the mine?"

He answered, "Yes."

And at this Sibley Mine, he testified, they used the brass checks.

In passing, if the Court please,—I don't want to take up too much time with that. I just want to give you our ideas about that,—about the brass checks. The answers to leading questions, "You checked in for work?" "You checked in for work, didn't you?"—Why, if the Court please, that is not worth the paper it is written on. There is no trick about the word "check", and no trick about the words "check in". It is what the facts are. It has been decided from the beginning of law that Courts draw conclusions, not witnesses.

The evidence is clear, and if the Court please, in this report of Stein's, which is attached to the report—

The Court:

You mean to the opinion?

Mr. All:

To the opinion, it is said that the checking in was for safety purposes, and for this matter of the convenience of the men in getting to their places of work,—I mean on the question of replacement. It wasn't given by him the significance of the commencing to work. They were dealing with the broad portal to portal with which we are dealing.

I just want to say this, if the Court please, just to repeat, that a witness calling something a checking in—what we are interested in is what are the facts. Bear this in mind. They used a brass check at one place and didn't use a brass check at the other. The first witness on that that worked for the Sloss Company was a man named Jesse Gaines. Jesse Gaines didn't have any check. What did he do? He just walked up and said, "Here am I." It is the same thing as putting a brass check up there where those men could tell where they were in that mine. The checking in has an effect, but what effect it has depends on what the arrangement between you and your employer is.

Mind you,—this is true,—

The Court:
You still have that custom?

Mr. All:
What is that?

The Court:
Using a brass check?

Mr. All:
We never have had a brass check in Sloss Mines.

The Court:
I mean other companies?

Mr. All:
Oh, yes.

Mr. Smith:
You have got a time clock, Sloss has?

Mr. All:
But the point is checking in, if it is not counting time—

The Court:

I get your point.

Mr. All:

—it is not significant in this case.

The Court:

I get your point. I understand what you mean.

Mr. All:

When the man walked up at the Sloss Mine and said, "Here I am," he did the same thing as laying down a brass check. But checking in does not mean anything. I mean that is the point I am making.

Now, this man said he was on an eight-hour basis at Pioneer; he would start work sometime before seven o'clock but time was counted from seven o'clock. He would leave underground at 3:30 and it would take a few minutes more for hoisting the men up. He had gone to work at about fifteen minutes to seven.

Now, on page 133 of the transcript there he testified that from the time he started working in 1924 until May 1, 1941, the collar-to-collar system was never in force and operation and they did not have it at all during that period; that the time of the men was computed on the basis of an eight hour day not including travel time.

On the same page the question was asked,—This is an analysis of this testimony:

"And that was, so far as your experience is concerned, the universal custom during that period of time?"

And his answer was, "Yes."

He stated further that that same custom existed both at the Sibley and Pioneer mines.

On page 135 he was asked whether or not when he got his pay check it was computed on the eight-hour time

spent at the working place and not travel time, and his answer was, "Yes." He stated that he signed a receipt on that basis twice a month.

Judge, just one second.

Another witness who testified was Anton Pechek. With respect to the eight hour day he stated that prior to May 1, 1941 they were always at the face the full eight hours and since May 1, 1941, they are not. He testified generally as to the type of mine and as to the operation; that it took ten or twelve minutes to get to the face from the bottom of the shaft, and about two minutes to get from the surface to the bottom of the shaft, so that about twelve or fourteen minutes would be the required time to get there and so forth. And then he testified to the universal custom of face to face in all aspects.

Now, I will not go any further—then, there is the testimony of Leander Runn to the same effect, and several other witnesses,—John Debeltz. I don't know, if Your Honor please, that I will read from this because they are all to the same effect.

Now, the witness Florindo Pilotto lived at Wakefield, Michigan, ore miner at Sunday Lake Mine, which is a Pickans and Mather mine. He testified at page 333 that they were on an eight hour day and stated, "That means you got to work eight hours at the face." A half hour is taken out for lunch and the men ate lunch a short distance away from the face.

I don't feel any useful purpose would be served to go any further into that, but that testimony shows a universal, established practice in the Lake Superior Region of face to face, just like it is here. It is a universal, unanimous, consistent, long-standing practice, evidenced by contracts running over some years.

Did Congress mean to disturb it? If they did, why didn't they say so.

Now, I have discussed the question of the check in and the check out.

I have one or two matters I want to discuss before I close. I don't want to get caught for time.

Now, here, with respect to the Sloss Company was a proposal in 1934—

The Court:
What is that?

Mr. All:
The Sloss Company proposal.

The Court:
Propsal?

Mr. All:
Yes, sir.

The Court:
I see.

Mr. All:
The proposal in 1934 requested that the employees enter on their own time and leave on the company time. Your Honor will remember that was their proposal. I don't think it is necessary to again comment on that. The fact they didn't agree with the proposal has nothing to do with this case. If they continued that practice they just sustained it and confirmed it as the existing practice. Congress was not legislating on that.

Something has been said about two contracts here with the Sloss company where the negotiations were carried on nominally by employees' representatives. They said the company didn't sign a contract recognizing the union. What has that to do with this case? Congress took care of that by the National Labor Relations Act. It is not involved in this case. I just can't agree with the idea that for the union not to agree with the company is a reflection

on the union, nor can I agree it is a reflection on the company because it does not agree with the union. I cannot agree with the idea that every refusal by the company is an imposition on the other side, but a refusal by the other side is not an imposition on the company. That is a personal viewpoint.

Now, on this question of checking in and checking out, I want to call attention to that again, and I want to call it for this purpose: Mr. Harris introduced some issues of the "Ore Miner" in which they cautioned the men in going to and from their working place and other places to avoid stepping over some sort of a new proposition, telling them to be careful and look out for things, and when Your Honor asked him why it was introduced, he said, "I think it is competent on whether or not he was under the direction of the company; that is, whether his work started up there when he checked in." Ridiculous, if the Court please,— ridiculous! I am not criticising him. There are two viewpoints which we have got, and I will say this: I have got a partisan viewpoint in arguing this case. Mr. Harris has too, and so have these other gentlemen. The advocate's angle is to reach an opinion at the start; the advocate's idea is I want this thing to be entirely this way, and I will go hunt something to bolster my viewpoint. That is all right. I am not cirticising him. But I am just reminding him that the judicial viewpoint is not to analyze the evidence in advance. I say to the Court the question of safety is commendable, but it isn't indicative of when the work time of these men start as against the long-existing custom and practice and the contractual obligations which they enter into. The question of trying to keep them from getting hurt is not going to militate to start his work time while he is walking down. I want to apologize for arguing that question as having any weight as evidence in this case.

Getting back to this, if the Court please, in 1934 there was a proposal,—you will remember that,—and in that

year that matter was wound up with this letter to Mr. Richardson. You will remember that in 1934.

Now, in 1935 another proposal was presented,—this is with respect to the Sloss Company,—on June 15th. Paragraph 2 of that proposal also proposed that the employees enter the mine on their own time and come out on the company's time. That was in 1935.

In passing, let me say this: That all the customs, all of the practices to substantially the fullest extent existing along in 1934 and '35 existed in 1938 and through 1938 up to 1941. These people, when they asked for travel time one way recognized it was the other way, and they didn't inject the performance of chores, such as the carrying of carbide, the carrying of a can of oil from a certain place. They themselves treated it as travel time in these proposals and otherwise, and it was a part of travel time, recognized as a part of travel time as such, and must be treated as a part of the custom upon which this act should take effect.

Now, 1935 was similarly ended with a letter to somebody connected with the Labor Department. We come on down, and in 1936, if the Court please, with respect to the Sloss Company, the proposal of May 6th provided for eight hours at the usual working place in line with the custom, in line with everything that had been going on in this district with respect to all our operations from the very dawn of the industry, and we say from this record and from the exhibits to this record that that is universally true.

In 1937, and I want to call Your Honor's particular attention to this,—in 1937, in 1938 and in 1939,—1937, before the passage of the Fair Labor Standards Act, 1938, the year the Act was passed, 1939, the year after it was passed, there was no Union proposal with respect to traveling time. Now, when we come to 1940, after the Administrator's agitation of this question, after this portal-to-portal matter came up, they demanded traveling time both ways; but until that came up, for 1937, 1938 and 1939,

there was no Union proposal at all with respect to traveling time, and they worked under the face-to-face custom.

What does that mean? If the Court please, I respectfully say that this is the pertinency of that testimony, and the cases support that: That administrative interpretations, coupled with the interpretations of the people who are affected by the Act,—if they go together, that is indicative of proper interpretation.

Now, if the Court please, as a matter of common knowledge, and, consequently, as a matter of judicial knowledge, this Court knows as well as you know anything else, that the people on the employees' side of questions like this have kept up in the last few years with legislative programs affecting work and work time and employee-employer relations if anybody on earth ever did. They have got as many people in Washington looking after their interests as any other element in this country. I am not criticising them for it. I think that is all right. But when they come along, and after the Act is passed,—come along and with respect to a new contract say nothing about travel time but go ahead with no proposal with respect to travel time, and the Administrator, for two and a half years, before he agitates the subject, says nothing, with these contracts proposed in the same way, I say that is an acquiescence and administrative interpretation and an interpretation placed on the thing by those whom it affects clearly indicative of the legislative intent.

I want to read in that connection the case of United States versus Midwest Oil Company. It is in 59 Law Edition at page 680.

The Court:

What is the United States?

Mr. All:

Let me get that for you, Judge.—236 U. S. 459.

This involved, if the Court please, a statute which provided in effect that all public lands containing petroleum and other mineral oils and chiefly valuable therefor have been declared by Congress to be "free and open to occupation, exploration by citizens of the United States under regulations prescribed by law."

In interpreting that act, although the act—the President had been withdrawing oil lands from sales, and the Midwest Oil Company raised the question that these oil lands should not be, under the act, withdrawn from sale, and the Court in passing on the question used this language:

"It may be argued that while these facts and rulings prove a usage,"—that is, the power the executive exercised,—"they do not establish its validity,"—do not establish the validity of the usage; it may have been in violation of the act,—"but government"—This is what I want to call Your Honor's attention to. I think it is very important. "But government is a practical affair intended for practical men. Both officers, law makers and citizens naturally adjust themselves"—I want to emphasize that,—"Both officers, law makers and citizens naturally adjust themselves to any long continued action of the Executive Department, on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice. That presumption is not reasoning in a circle, but is the basis of a wize and quieting rule that, in determining the meaning of a statute or the existence of a provision, weight shall be given to the usage itself,—even when the validity of the practice is the subject of investigation."

Now, I have argued, if the Court please, that when Congress looked out on the scene it looked out on a universal, unanimous, consistent practice and custom with respect to travel time in ore mines. I will pretermit the others. They knew it was going to operate on ore mines.

You can't say with justice, if the Court please, that they intended to revolutionize the practice; that they intended to say to ore miners, you wake up tomorrow morning and make a decision that it required the Administrator two years and a half, with two elaborate hearings, and reached with a good deal of timidity, to make. That is the ruling that we say to you he was wrong in. But would you expect, if Your Honor please,—would you expect the people who had been engaged in an industry to which this act would apply,—would you expect them to wake up on the morning of October 25, 1938, and glibly say we are going to have to revolutionize our business? To say that is unfair and unjust. I am not saying it for that purpose. I am saying it for this: That that act is not plain to that effect, and that they looked on that established custom and that established business, and that is indicative of the fact that they meant for it to be consistent with that established custom. That is shown by the fact that the employees and the union treated the act as not applying to traveling time and that the Administrator for two years and a half left it alone.

Judge, I believe my time is up.

The Clerk:

You have about seven minutes.

Mr. All:

I just want to say this in passing, if the Court please: I have no way, and Your Honor can appreciate my position, —I have no way of anticipating what is going to be said on the other side except from the nature of the general conduct of the trial, but I think there are two or three other matters I just want to make brief reference to.

You will remember in connection with what I have been discussing all the morning,—it has been the contention,— I don't know of how many of them,—but Mr. Harris, certainly, that there wasn't anything competent in this case,—

The Court:
Wasn't what?

Mr. All:
We couldn't look to any evidence, we couldn't look to anything that happened prior to October 24, 1938. In other words, all there was to do was just to pay off. I don't think there is any need to answer that. I think the things that happened just prior to the time of the enactment of this act was in the general viewpoint of the Congress looking out on the general scene and passing a piece of general legislation, knowing who it was going to affect in a way, that the custom and practice at that time was the crucial thing, and that they did not intend to change it.

Then Mr. Quinn gave some idea I rather construed to mean, if you follow it to its last analysis, that Congress hasn't got time to do this, has just got to leave it to somebody. If we follow that line of thought, we get into a field of ideas that is fraught with great danger. I thought at the time he was talking if that view he was expressing were carried into practical effect it would result in the most flagrant instances of administrative regulation.

Mr. Monaghan has called my attention to this: That the Administrator doesn't claim any power such as Mr. Quinn claimed for him. They say it is just an opinion. As I say, I don't know whether the Administrator is a lawyer, or the sort of legal advise he has or what value the thing has, but this is just an opinion, they say.

With respect to the other gentlemen I have nothing to say except I listened with a good deal of interest to the argument of Colonel Harris on the structure of our government on the question of whether the evidence as to coal mines was admissible, with which views we are in thorough accord. We have three foundation stones. We have three coordinate branches of government, each independent of the other branch of government, the legislative, the executive, and the judicial. We

all agree with that. I didn't know at the time just what pertinency it had with reference to this particular matter. I don't know how to anticipate his argument, but I want to agree with this and say that nobody loves the structure and fundamentals of our government, particularly that part of the Constitution which provides for the three branches of the government more than I do; that there is nobody in the world,—I reckon we all do,—that has got any more feeling with respect to the preservation of that feature of our government from the inroads of administrative—when I say administrative, I mean bureaus and economists going too far,—than I have. I think that is something we have all got to guard with particular care.

If the Court please, I don't know whether I have talked about all I want to talk about or not. If you get up you probably spend too much time on one thing and not enough on another, but I believe that about covers what I care to say.

The Court:
All right. We will take a recess for five minutes.

(Thereupon proceedings were in recess from 11:05 A. M., to 11:10 A. M., at which time proceedings were resumed as follows.)

The Court:
All right.

Mr. Brodie:
Shall I proceed?

The Court:
Yes, sir.

Mr. Brodie:

May it please the Court: This case arises under the Fair Labor Standards Act of 1938. It doesn't arise under any regulation governing hours of work or governing employees who are especially excluded from its provisions. It doesn't arise from any state statute. It doesn't arise under any opinion of the Comptroller General. It arises under an act of Congress passed in June, 1938, which became effective October 24, 1938.

That act was designed to accomplish a number of purposes which the Congress enumerated in Section 2. The Congress found that "The existence in industry engaged in commerce or the production of goods for commerce of labor conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency and general well-being of workers (1) cause commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several states; (2) burden commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce, and (5) interferes with the orderly and fair marketing of goods in commerce."

And the Congress, in that section of the Act, declared its purpose by this statute to eliminate as rapidly as practicable these detrimental conditions which were existing to our economy and social structure, and to accomplish that purpose Congress created minimum wage standards, maximum hour standards, and abolished child labor.

The minimum wage standards are not here involved.

The maximum hour standards by which Congress sought to accomplish this purpose of preventing labor disturbances and preventing strikes arising over wages and hours,

burdening the channels of commerce, and preventing various other practices interfering with interstate commerce are here involved. Congress sought to accomplish that purpose by providing in Section 7 of the act, and I read, "No employer shall, except as otherwise provided in this section, employ any of his employees who is engaged in commerce or in the production of goods for commerce in excess of" the specified workweek set forth without paying time and one half for overtime for hours worked,—that is quoted,—hours in the employ of the employer in excess of those maxima.

To make doubly certain that there could be no misunderstanding as to what Congress meant, it included in the Act a section containing definitions. Section 3 and Section 3 (d) says employer includes any person acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States or any state or political subdivision of the state, or any labor organization other than one acting as an employer or anyone acting in the capacity of officer or agent of such labor organization.

Employer includes mine foreman, it includes assistant mine foreman, it includes skip tenders when they are specifically or directly acting in the interest of the employer with respect to the employee.

Further along Congress defined employee to include any individual employed by an employer, and in Section 3 (g) it defines "employ" to include "to suffer or to permit to work".

Now, in this case as it has developed here, those statutory provisions assume crucial significance. There is no question here about travel time per se. This Court, I respectfully suggest, has no power under the Constitution to decide any questions about traveling time per se. The Constitution limits the jurisdiction of this Court, and the Declaratory Judgments Act under which this case is

brought limits the jurisdiction of this Court to cases and controversies, actual, real stuff between people, not bloodless, intellectual conflicts, not a game of chess. The controversy here is a real thing. It concerns the people of this area. It concerns these people who work under the mountain which can be seen from this Court room. It is not concerned with any hypothetical or intellectual exercises or bloodless intellectual callisthenics involving traveling time per se. The Court has no jurisdiction to decide that. The Constitution does not permit it.

Consequently, the question here is whether the employer and employee relationship, within the meaning of the Fair Labor Standards Act, exists if and when an underground employee of one of these companies reports at a tally house or some other fixed place and checks in or reports or says I am here, or anything of that sort; whether the employer-employee relationship exists when he reports there dressed in his mining clothes subject to the instructions of the employer.

Now, much testimony has been educed to show that instructions were sporadic or casual or not a regular thing. That is not important. The point is were these men subject to the instructions of the employer when they reported there. If so, within the meaning of the Fair Labor Standards Act, they were employees, and their time started to run. The question is, further, when these men reported with indispensable equipment they are employees and their time has begun to run.

Considerable testimony has been educed to show that tools are light or tools are heavy or that it takes a minute to pick up something or that it takes two minutes to pick up something else. The one incontrovertible fact which emerges from all this mass of testimony is that the one indispensable tool, the item which counsel says you can't work in the mines without, the miner's lamp is with him and is carried with him when he reports for duty and goes down into that mine.

Does that employer and employee relationship exist when the miner gets into a skip operated, provided and controlled by his employer, the loading of which is supervised by his employer or a representative of the employer acting in the interest of the employer with respect to that employee,—into a skip which runs on a schedule predetermined, not by the miner who takes it, but by the company which runs it and operates it? Does that employer-employee relationship exist when that man, that miner is required to be there to take that skip? When he must conform to the directions of the employer with respect to the time of reporting to take that skip or lose his job? The minutes of the Tennessee Company themselves, the evidence of the witnesses for the plaintiffs, all lead to only one conclusion, and that is you be there on time to take that skip or else. It is not a question of you being at the working face; you be at the top; not that you be at any point inside; you be at that point to take that skip or else you lose your job. Does that employer-employee relationship continue during the descent in the skip and during the walk through ways which are determined for the employee by the employer under rules promulgated by the employer and subject to hazards which are peculiar to this industry? And does that relationship continue at the end of the shift while the underground employee is returning over this way that is determined for him by his employer, over which he has no control, to the hoodlum, while he is being hoisted to the surface, and while he is still remaining under the direction and control of his employer?

And the question further is does that relationship of employer-employee continue until that underground employee checks out and once more becomes a free agent, completely free of any direction and control of his employer?

That is the question in this case, and it is the Administrator's position that during all the time the underground em-

ployee is subject to the direction and control of his employer from the moment he reports for duty at the top until he emerges at the end of the shift and once more becomes a free agent, he is on duty, and if the hours on duty exceed forty in any week, he is entitled to be paid time and a half for overtime.

Excluded from that time is a fixed lunch period that the employee has his lunch period free and that time is not included.

That is the Administrator's position and that is the issue of this case.

Portal to portal and face to face, as I have previously explained, are merely symbols. This Court cannot decide whether portal to portal is the proper way to pay a man or whether face to face is the proper way to pay a man, or whether he should be paid on some variation of those systems. This Court must necessarily decide whether all the time spent by an employee under the supervision and under the control and direction of his employer, whether all the time an employee surrenders up his freedom,—this Court must decide whether that time exceeds forty hours per week, and if so, this Court must decide, I respectfully submit, that that employee is entitled to time and a half for overtime, and that is the sole question in this case.

Our position is based upon the statute; is based upon nothing else, and the statute makes that question of employer-employee relationship the crucial determinative question to be decided by this Court.

The plaintiffs, with all the testimony they have introduced, with all their argument, have failed to make out any basis upon which the statute could be construed otherwise. Their sole contention is that the existence of a custom and the existence of a history of collective bargaining prior to the enactment of the Fair Labor Standards Act will prove that Congress did not intend to include within the Act the aspect of the employer-employee relationship we are discussing.

It is not proof that these men are not at work; it is not proof that they are not subject to the control and direction of their employer. It is offered as proof that Congress intended that employers could go on employing people for hours and not paying them.

That evidence took two weeks to put on. We have listened to a long argument this morning. During all of that not the slightest bit of attention was paid to the clarities of the situation. No attention was devoted to whether these employees are subject to the control and direction of the employer. No attention was devoted to the extent to which their freedom was circumscribed. That was all forgotten in the search for a custom or a practice or a practice or history of collective bargaining which would deprive the employees for whom this act was passed of its benefits.

Now, that omission is, in my view, a tremendously significant thing and I think that one of the most significant things that has happened in this case happened on July 9th, the second day of the trial, when Mr. Harris made an objection and Mr. Burr said:—This is on page 319 and the top of 220 of the transcript.

"Mr. Burr:

I understand your objection is that anything prior to the enactment of the act is out the window.

"Mr. Harris:

Yes.

"Mr. Burr:

We figure that if that goes out the window we won't have any case here."

And why not? If these men are not at work, if these men are not employees, these men are not subject to the control and direction of their employer, they have got a

case. Why does he figure that if all of this evidence respecting intrinsic factors goes out his case goes out the window?

Now, let us examine this reliance upon custom and practice and the history of collective bargaining and assuming arguendo that there is something to it and see how far it takes us. What are the facts? The facts are that actually there has never been any settled custom, there has never been any practice, that the history of iron mining in this area as the history of all industry everywhere is one of constant change. The mines started as strip mines and the ore was taken from the surface. They went underground and the men walked down. Later, when the walking distance became too far they went down on skips. They worked at one time on a contract basis. Later they worked on a task basis, and at the end, during the completion of that task; that is when they had their quota for the day, they could come out of the mine. No face to face. Later they worked on a ten-hour day. And, parenthetically, I would like to observe that if the question whether what the plaintiffs denominate travel time is of any importance at all I suggest that the testimony indicates that during the ten-hour day underground workers were paid for some part of the time away from the face. Then they went on an eight-hour day. But that eight-hour day was not on an hourly basis during which a careful check that was kept to determine whether a man spent eight hours at the face and, if so, he was paid for eight hours. Oh, no, that eight hours was a shift basis or a turn basis. The men who were employed, during the course of their employment they were required to perform a certain turn at the face and when they completed that turn they were permitted to go away from the face to start back to the hoodlum, and they were paid regardless of that shift. There never was an eight-hour day. There never was an hourly basis.

Every witness examined by counsel for the plaintiffs said, "Yes, I got through with my drilling early. Yes, we

finished our loading early. Yes, we did something else. When we were through with it we walked back to the hoodlum or we sat down and smoked a cigarette, or we did something else." And counsel said, "You were paid for that, weren't you?" and the witness said yes, sir, of course, he was paid for it. That was his shift. There was not any kind of hourly basis or anything of that sort.

Now, with respect to the other two companies it is inconceivable that there can be any contention that these men, their employees, were paid on a face-to-face basis. As Your Honor pointed out during the course of this trial, how can a man who is paid on a piecework basis, who if he loads one ton and is paid for one ton, or if he loads one hundred tons and is paid for one hundred tons, be said to be working on any defined hourly basis at a particular place?

Now, that tonnage basis continues to this day at the Republic Steel; with modifications it continues to this day at the Sloss-Sheffield, and the incentive plan of the T. C. I. is merely a modification of that tonnage or piecework basis; that is all it amounts to.

There is no custom, there never has been a custom of an eight-hour face-to-face or any other face-to-face question. Moreover, the practices of the companies themselves refutes any contention that there was a custom. Some mines are highly mechanized. Other mines have not yet reached the machine age. For many years in some mines they had a nine-man crew. Then they had a seven-man crew in their mines. Then a five-man crew. There is not any custom.

Moreover, for a custom to be worth anything at all it must be acquiesced in by the parties. These people cannot say, "No, we are not going to pay you; no, sir, you are not going to be paid," and then come into Court and say, "We have a universal, unanimous custom that our employees work for nothing and consequently this Act of Congress does not give them any protection."

Unanimity means agreement by all parties. Custom, to be worth anything applied to legislative interpretation must be acquiesced in by the parties concerned. Certainly, the Government or the Congress cannot be bound by any custom. Certainly, employees who throughout the years, ever since they had the slightest strength to raise up their voices in protest, have been fighting for a shorter working day. Whether they got it or not is immaterial. Certainly, those employees cannot be said to have acquiesced in any custom.

Much time has been spent referring to the practices in the Lake Superior district and Mr. All spent a considerable portion of his agrument this morning reading from the deposition taken in Minneapolis, that the employees there were always paid on a face-to-face basis. But that testimony—and that is the plaintiffs testimony where they took the depositions; it is the plaintiffs' testimony and they vouch for it—the testimony of every witness in these depositions is that since 1935 or prior they have been annually asking for eight hours collar to collar and they never had strength to get it. They asked for eight hours collar to collar when the employees representative plan or company union was their sole means of contact with their employer and when the Steel Workers Organizing Committee began to organize that area they asked for eight hours collar to collar, and in 1937, I believe it is, they submitted to the Oliver Iron Company—the Oliver Iron Company is a subsidiary of the United States Steel Corporation, a blood brother of the Tennessee Coal, Iron & Railroad Company, one of the largest, if not the largest, operators in the Lake Superior district—they submitted to that company a proposed contract in which they said:

"The schedule of hours made effective March 16, 1937, which provides an eight-hour day and a forty-hour week with time and one-half paid for all overtime in excess of eight hours in any one day, or for all overtime in ex-

cess of forty hours in any one week, shall remain in effect throughout the life of this agreement. It is further understood and agreed herein that the eight-hour day for underground miners shall be from collor to collar with one-half hour for a dinner period."

True, they didn't get it. They never got it. But what of it? There can be no custom which can bind anybody unless it is acquieseced in. And this book of minutes indicates that at every meeting of the union at which that question was discussed the men said, "We want eight hours collar to collar."

Moreover, these depositions indicate that one man whose name I do not at the moment recall, said that when he was trying to organize a union when he was doing something to better their conditions he was dragged from his home and beaten up. And to say that that is a history of a custom on which these plaintiffs can base an argument that an Act of Congress is ineffective!

Then what do they say further? They say in addition to a custom we have got a long history of collective bargaining which should not be disturbed and its employees have entered into agreements which provide that eight hours face to face shall be the working day. But they don't say they have introduced this evidence to estop the workers; they don't say they have introduced the evidence to estop the Government, because they know the Government cannot be estopped. They know that private agreements cannot override an expression of the Congress.

Oh, no. They say that they introduced this to show the things which actuated Congress. Well, Your Honor has put his finger on the knob of this case. What showing is there of a legislative history that Congress had any of these factors called to its attention? There is not one particle of legislative history indicating that Congress considered any of these matters at these hearings, that Con-

gress considered the question of what the Attorney General or the Comptroller General or the Secretary of Labor or anybody else had to say about immigration inspectors on Angel Island.

Parenthetically, I would like to say this, that they had no opportunity to probe into that further and I know of my own knowledge that that question was never settled because the fire burned down the immigration office on Angel Island so the matter was left hanging and the dispute was abandoned.

But regardless of that, assume that what I said is not so and that the Comptroller General and the Attorney General or anybody else said Government employees or anybody else that worked on Angel Island for pay on Angel Island thirty-nine hours that the time spent on the ferry should not be included, it does not show that Congress had any of those factors before it; it does not show that this act was passed in contemplation of what the Comptroller General or the Attorney General or anything of that sort—if Congress is presumed to be omniscient and presumed to know all of these things, then Congress must be presumed to know that in the far west in the great mining states of Arizona and Utah eight-hour collar-to-collar laws have been in effect for many years. Congress must be presumed to know, and this is record evidence introduced by the plaintifs, in the opinion of the Administrator, that in many of the mines in the west collar to collar has been the rule for a long time, that operations collar to collar have been the rule for a long time and Congress must have known that employees are not paid for nothing, that employees are not paid for hours when they don't work. Congress must have known that if the Annaconda Copper Company pays for time between the collar and the face it must do so because the men are at work.

Now, with respect to this contention that there is a history of collective bargaining and that these men have bound themselves and cannot unbind themselves, I would

like to call Your Honor's attention to the Court case of *Holden vs. Hardy* in which there was before the Supreme Court the constitutional validity of a maximum hours law for metal workers in the state of Utah.

Mr. Burr:
What case are you reading from? I didn't get your citation.

Mr. Brodie:
That is reported at 169 U. S. 366 and what I am about to read appears on page 397.

Mr. Burr:
And the name of the case, please, sir?

Mr. Brodie:
Holden vs. Hardy.

The Court:
Page what, did you say?

Mr. Brodie:
The quotation I am about to read is at 397, Your Honor, The case itself starts at 366. The Court there said:

"The legislature has also recognized the fact, which the experience of legislatures in many states has corroborated, that the proprietors of these establishments and their operatives do not stand upon an equality, and that their interests are, to a certain extent, conflicting. The former naturally desire to obtain as much labor as possible from their employees, while the latter are often induced by the fear of discharge to conform to regulations which their judgment, fairly exercised, would pronounce to be detrimental to their health or strength. In other words, the proprietors lay down the rules and the laborers are prac-

tically constrained to obey them. In such cases self interest is often an unsafe guide and the legislature may promptly interpose its authority."

And that is precisely what the Congress here has done. The Congress has supplemented by the Fair Labor Standards Act the weak and puny efforts of these people to obtain a square deal, to obtain pay for all the time they are at work, to obtain pay for every hour they surrender their freedom to the control and direction of their employer.

Certainly the fact that they continue to work on their jobs and accept pay for a fewer hours than they actually work, rather than being a factor which negates the application of the statute it is a further reason for applying the statute and give them what they are entitled to, what they by their own efforts because of their weakness cannot get.

Much time has been taken up to show that by administrative constructions administrative officers of the Government have been estopped from doing one thing or another. Those cases represent merely an effort by the plaintiffs to lift themselves up by their bootstraps. They apply conjecture upon surmise and then when they erect this magnificent theory-made edifice they hang the argument in the sky and say the Government is estopped and custom and practice prevent this Court from giving effect to the will of Congress. But every one of those cases in which they have referred to an administrative ruling existing for a long time as being a consideration which should influence the Court in applying an administrative ruling between the parties to the suit—not one case says that because the Attorney General considers the hours of work of immigration inspectors on Angel Island to be one thing that the United States District Court for the Northern District of Alabama is bound by that in interpreting what the Fair Labor Standards Act confers upon employees who come before it. Not one of those cases says that the

administrative intepretation of an entirely unrelated department of the Government can bind this Court in determining another issue.

Moreover, let us see what the latest pronouncement of the Supreme Court on this question of a departmental practice or a departmental ruling or a departmental procedure, what effect that has upon the Courts. In *United States vs. City and County of San Francisco*, decided in 1940, and reported at 310 U. S. at page 17, it appeared that the Government filed a complaint for an injunction to restrain the City and County of San Francisco from violating a restriction attached to a grant of lands by the United States to that municipal corporation. The restriction prohibited the grantee from disposing of power which was generated on those lands to a private utility. The city, however, had the right to dispose of the power direct to consumers. It seems that the city for many years had been disposing of power to a private utility and the Government filed suit for an injunction. A substantial part of the city's defense and its argument rested upon a claim that the Department of the Interior between 1913 and 1937 had construed the grant not to prohibit that which the Government sought to restrain. In other words, the Department of the Interior had said it is perfectly all right to sell this electricity to a private utility and in addition it was suggested in that case that the administrative interpretations of the Department of the Interior created an estoppel against the Government. The opinion was written by a distinguished son of this state, Mr. Justice Black, and with the Court's permission I will quote from it. I am quoting at page 31:

"A substantial part of the City's argument rests upon its claim that the Department of the Interior in the period from 1913 to 1937 construed Section 6 to forbid no more than sale of power for resale." That is Section 6 of the grant. "We are asked to accept these administrative in-

terpretations. And in addition the City suggests that conduct of the department, of which these interpretations were a part, is sufficient to create an estoppel against the Government. Whether the department at any time ever did more than merely to tolerate sale and distribution of Hetch-Hetchy power by the company as a temporary expedient is doubtful. Certain it is, however, that in 1935 the Secretary of the Interior declared the City's disposition of the power through the company to be a violation of Section 6, demanded discontinuance of this violation without success and thereafter instigated this proceeding. We cannot accept the contention," says Mr. Justice Black, "that administrative rulings—such as those here relied on—can thwart the plain purpose of a valid law."

So with all of those factors in the case, administrative rulings, estoppel or anything else, the question is, what are the facts, what do these men do, what is their relationship, what control and direction and supervision is exercised, what limitations are there upon their freedom? And I don't blame counsel for saying that if that is the only evidence that is going into this case he might as well give up because there is not anything else in the case.

There are not any facts to refute the crucial and controlling factor that when these men report at the top of the mine, when they report at the tally house, when they are subject to the direction and control of their employer from that time until they come out and once more free agents, that they are at work. There is not one scintilla of evidence in this case to refute that. Every essential fact in this case bears that out. And if any further evidence of that were needed it would be the testimony of the skip tender who testified that he was paid for nine hours from the time he took the skip out and first started to go down until he became a free agent at the end of the day, while during the same period of time the underground employees were not paid for nine hours.

The companies, however, answer this by saying he was employed as a skip tender and this man is employed as a mucker and he works and he mucks for only eight hours. But the Fair Labor Standards Act does not say that no employer or no iron mining company shall not employ a mucker for mucking or a driller for drilling or a service man at maintenance work for more than forty hours a week. It says no employer shall employ any of his employees for a workweek in excess of forty hours without paying them time and a half for hours in excess. That is all there is to this case.

When we search for a guide in what the Courts have said for a determination of this question we come to the same result that we reach by a process of logic and that is that these men are at work, they are employed and they must be paid. I refer Your Honor to the Hours of Service Act and also to the cases dealing with travel time.

Now, there has been some subtle or metaphysical distinction between travel time and working time in this case. Whether this time be called travel time or anything else, these men are at work.

Now, specifically the cases involving that which, for want of a better term, has been called travel time, I respectfully call the Court's attention to the cases already decided under this act, not under another act, under the Fair Labor Standards Act. One of them is the case of *Williams vs. Atlantic Coast Line Railroad*, which was decided on February 17, 1940, by Judge Meekins, I think it is, in the Western District of North Carolina.

That case involved the application of the act to maintenance of way employees of a railroad who reported for work at the tool house or section headquarters and they were then transported by the railroad, their employer, to a particular point along the right of way at which repairs were to be performed by them, the railroad claiming that it was not required to pay for that time, that is, the time they spent riding this little handcar or whatever it was, and for

that reason made a deduction for such travel time from the wages actually paid to the workers. In other words, they said, "We are going to charge you fare for this." And Judge Meekins found, and I quote:

"That the 'travel time paid for' for which the defendant claimed a reasonable cost of 1.5 cents per working hour for each of the plaintiffs, consisted of time spent in traveling by rail motorcar from the tool house, or section headquarters where the plaintiffs reported for work, and the place of work on the tracks and in the return to the tool house, and not of the time spent in traveling between plaintiffs' residences and the section headquarters. Plaintiffs were entitled to be paid for such time since it was time spent working for defendant and the claim of defendant with regard to this item is denied." That is, the claim for deduction of this cost.

In *Hackworth vs. Caddo River Lumber Company*, decided June 5, 1941—and I don't know whether it has been reported—I have no citation on it—the same principle was applied by District Judge Miller of the Western District of Arkansas. There the plaintiffs were engaged in activities connected with the production and transportation of timber and lumber products and they sued for unpaid wages under the act.

The Court:

When was that case decided?

Mr. Brodie:

That was decided June 5, 1941. Judge Miller indicated that they were not to be paid for time spent in traveling to and from their homes, but he then pointed out, and I quote:

"Some of the plaintiffs in the statement of their claims made no claim for the time required in going from their

homes to the place of work and returning therefrom, but in determining this question I have considered the work time of the operators of the train or the track men, or section hands, begins at the time of their departure from the railroad yard or section house for the scene of their labors and the work time continued all during the time they were on the road and until they returned to the railroad yard or section house, excluding, however, the usual period for lunch."

Now, I respectfully urge that if the time spent by railroad workers in traveling in the open air on motor propelled cars in relative comfort from the point at which they are required to report to the point at which—what plaintiffs call their productive labor—commences, must be considered hours of work for which they are entitled to be paid, it seems to me doubly clear that these underground workers who go down in cramped conveyances, who are subject to all sorts of hazards and take with them the one essential tool of their occupation, are entitled to pay for that time.

Another case that I would like to call Your Honor's attention to is *Fleming vs. North Georgia Manufacturing Company*, which is reported at 33 Fed. Sup. 1005, and what I am about to quote—

The Court:
What Federal?

Mr. Brodie:
33, 1005, and what I am about to quote appears at pages 1006 and 1007. There the claim was made that employees were not at work although they were admittedly on the employer's premises engaged in various occupations connected with their actual manufacturing activities. In other words, it is a waiting time case and Judge Underwood in a contempt proceeding held:

"The pretense and artifice of defendants, both with respect to recovering back from their employees, under the guise of free will offerings the amounts of restitution paid under the decree of this Court, and also with respect to their claims that employees, though remaining in the factory long hours, were really not employed a great part of the time and were free to utilize such time as they saw fit, are puerile and too transparent to deceive anyone. The benefits and purposes of the Fair Labor Standards Act cannot be set aside by any such devices and subterfuges."

Similarly, in another case pending under the Fair Labor Standards Act, decided by the Supreme Court of New York County on June 4, 1941, *Rech vs. Zarnocay*—and I do not have the citation for that—the plaintiff sued under Section 16(b) for alleged wages which he claimed were due him as a general assistant, secretary and press agent for a band leader whose orchestra made recordings and radio broadcasts in various parts of the country. Before the recordings and broadcasts plaintiff was engaged in assisting in the preparation of the studio, assembling the instruments and similar activities. During the performance he did no actual work but he had to remain there for duty. The Court held, and I quote:

"The fact that plaintiff was not actually working each minute is immaterial since he was required to be present ready for work during all the time involved.

I would like to call Your Honor's attention to the cases which have arisen under the Hours of Service Act, which will be contained in our brief and which I have not time to call to the Court's attention now, and there is one case which is a departure from the normal and that is a case decided by a Court in California—I am not sure whether it was the Supreme Court or a lower Court in California—in which was construed the eight-hour law in California

which required the workers to be underground eight hours. Now, that case, I submit, was wrongly decided. It is based upon *United States vs. Post*, a United States Supreme Court case reported at 148 U. S. 124, and there the Court held that a letter carrier who was on duty was entitled to compensation for all hours while he was on duty despite the fact that he might not have been letter carrying a certain portion of his time. The California case is *Ex Parte Martin and Lee*. I will refer to it in our brief.

Thank you very much.

The Court:

We will be back at 1:15. Court is adjourned until 1:15.

(Thereupon, at 12:15 P. M., August 1, 1941, Court was in recess until 1:15 P. M. of the same day.)

After Recess, 1:15 P. M.

The Court:

All right, Mr. Quinn.

Mr. Quinn:

May it please the Court, Mr. Brodie has very ably and clearly covered this policy and purpose of the act with reference to the particular facts in this case.

Much has been said about whether or not Congress retained or had no intention of abrogating customs and practices. It is admitted, I believe, that Congress, as a matter of fact, had no legislative or historical discussion at the time or prior to the time the act was passed, but it would be indeed a violent presumption to assume that even though Congress had in mind of not doing away with customs and practices, Congress chose to retain the evils and injustices in customs and practices. Someone has said the evils that men do live after them; the good is

often interred with their bones. Congress, may it please the Court, chose to bury the evils in customs and practices as they let their minds dwell upon and had in their minds customs and practices and evils and injustices in the hazards and slip-shod methods of industry in this nation engaged in the interstate commerce or in the production of goods for interstate commerce.

If Congress, may it please the Court, had any intent and purpose, it was to do away with and to put an end to dangerous an unjust evils and practices whether they were built up over a period of recent or over a period of long years. Congress deliberately expressed fully and clearly its policy in Section 2 of the Act, and some of these evils and injustices and weaknesses and detriments to health are referred to there. Congress defined "employer" and defined "employee", and by the verb "employ" defined or added to the definition of "employ" when one is employed.

Congress didn't choose, and it would have been, in my judgment, highly impracticable to have undertaken to do so, to define or stipulate what the workweek should be. With hundreds of thousands of industries and businesses in this country, some of them, Your Honor, prior to the passage of the Act, perhaps paying traveling time, and some paying waiting time to their employees even before this Act was ever dreamed of, many paying no such time, many working in hazardous places over long periods of hours, in danger, in surroundings and environments that were not conducive to their health and physical well-being, often sacrificing in blood and tears and sweat, to use a very popular expression, in their carrying out and in their performance of their hazardous tasks, it would have been impracticable for the Congress to have prescribed a general workweek.

We assume Congress had in mind that, if you revert to customs and practices, Congress had no intention, we will say, of doing away with the good that obtains in

ancient customs and habits or practices, or even modern customs and habits and practices, and Congress did retain some of them in this very legislation.

And, by the way, we have a humanitarian attitude in its social outlook, and, therefore, this Court must liberally construe it to meet the manifest intention and purpose of the Congress as all such legislation must be.

Now, Mr. All takes me to task because of an observation I made the other day that Congress did not define the workweek but left that to the Administrator of the act. Can it be said that the plaintiffs in this case contend that the Administrator and administrative machinery provided in this act have no authority to issue and promulgate an interpretive opinion? I do not think they would dare go that far although they have gone very far afield in this particular case. I made the statement then, and I assumed they wouldn't deny it, that the Administrator, whose primary duties and functions are to enforce the Act, has the right to issue and promulgate and announce an interpretative opinion. What weight, then, will Your Honor give to this opinion? No less an authority,—Your Honor is familiar with that, and I am sure the lawyers on the other side are also familiar with it,—no less an authority than the Supreme Court of the United States has said often and very recently in the Trucking Associations Case with which we are all familiar, that the Courts, including the Supreme Court of the United States gives such opinions great weight.

I will venture this, and it cannot be argued away or even disputed successfully should the attempt be made,—when the Administrator issues such interpretative opinion that is the administrative law, Your Honor, for the purpose of carrying out the purposes and intent of Congress until Your Honor or some Court of competent jurisdiction has nullified, abrogated or set aside the opinion of the Administrator.

No, I wasn't so foolish as to say Your Honor is bound by that administrative opinion,—no. Your Honor can, if he thinks the evidence justifies it, forget the Administrator's opinion, except Your Honor will give it great weight, as the highest authority in the land says it must be accorded, but Your Honor will render that issue on the facts as presented, and I submit, on the testimony of the plaintiffs alone, the Administrator's opinion is justifiable. Forget, may it please the Court, any testimony that the defendants have presented in this Court, and the Administrator's opinion is wholly and amply justified on the testimony alone of two witnesses,—Mr. Ball and Mr. Carter. If there were no other testimony before Your Honor, in the light of a commonsense interpretation of this Act, the Administrator's opinion would stand.

Now, let's see. What did Congress provide? Let's use the words. Look at the verb "employ",—when an employer employs a man. That includes "to suffer or to permit to work". I make this assertion, and it is founded on reason and, I think, authority, that suffer or permit to work,—if that is done by an employer with his employees, irrespective of any written or other contract he may have with them, he is bound to pay them for the time permitted or suffered to be worked by them, and they cannot contract contrary to that simple provision however they may try to exercise themselves in an effort to do so. I repeat for the sake of emphasis, that no matter what contract the employer has with his employees with respect to an eight hour day, if that employer permits or suffers his employees to work overtime, he is bound to pay them, and if not, he is subject to the penalties provided in the act, and he is powerless to contract against it and talk about a waiver or forfeiture. If these men, may it please the Court, since October 24th of 1938, have performed services within the meaning and contemplation of this act, and that is well established in this country, what service consists of, then these plain-

tiffs must pay for it. They are not coming into this Court, this great Court, may it please the Court, as beggars; they are not coming into this Court of justice and asking for something to which they are not entitled. They have been paid, may it please the Court, since October 24, 1938, up to May 1st of this year for eight hours work and for a five day week. If they performed ten hours service in the sense that the relation of employee and employer obtains, when they were on the premises, when their work begins,—no, they are not beggars. They are standing on their feet, on their just rights, and having been forced in as defendants in this Court, they put in their simple counter claims and say yes, we have been asking for it all along.

They say they didn't ask for travel time but three times. "Thrice they offered him a crown and thrice he refused." They didn't offer Caesar the crown the fourth time because, having refused it thrice, it was an absolute certainty he would not receive it the fourth time. Do they expect these boys to come bending and crouching before them year in and year out asking for so-called traveling time? No requirements was made at all. They weren't required to do it once, but three times is enough if that were all. And, if they have performed the services, may it please the Court, they are entitled to their overtime, rightfully so, as citizens and workers.

Something has been said about whether they are organized or unorganized. Other tribunals, may it please the Court, fortunately have been set up under other legislation for the purpose of organizing the working men. That has become the fixed policy of this country in recent years fortunately. An honest worker cannot now be fired on a flimsy excuse, wholly in the mind of the employer perhaps. That is a great day. If there were times in this country when the workers did not have that protection and had to submit, those times have gone. Today the worker is protected in his rights. That

is the eternal policy of this country so long as this country shall live, and I hope and believe that is many, many, many years to come. No, this is not a tribunal to question an organization or disorganization. There are three great groups in this Court, Your Honor, standing upon their rights as counter claimants, and they have been brought into this Court by the processes of this Court and not voluntarily upon their part. We have the great C. I. O. group, the great American Federation of Labor group and the great and very significant unorganized group who have, as individuals, workers and employees, the same rights, and whose rights are being determined here just the same as the others. The question whether they are organized—come in here organized by one great, powerful union or the other is not the question here,—not at all. They are in Court as workers and employees, and they are insisting upon their rights under the opinion of the Administrator who says under the rules they work from portal to portal. Had they done no work at all, the Administrator's ruling was correct. He held if the employees came upon the premises and checked in, or came upon the premises at a time and place just immediately before they started down into the mine, their work period began, and whether they did any work or not, either in the mines on the way to their respective places where the production was done or whether they did or performed actual service on the surface, they are at work, but the evidence here strengthens the facts found by the Administrator, and it is overwhelmingly shown by the evidence in this case that they did actually perform physical work. Riding time, traveling time,—I prefer to call that by its common sense name, what it is. It is work time. In that crouched, crowded position, uncomfortable on their way subject immediately to the hazards; before they start down, under the undisputed facts, subject to the orders of their employers and their

agents in charge of the entrances and loading and unloading stations,—why, if Your Honor please, it is work time and nothing but work time.

Why, Mr. All says, it is absurd, the argument Colonel Harris referred to in questioning a witness the other day or introducing in evidence the records of the rules and regulations that are shown in the ore miners magazine, the operator's magazine. He says it is absurd. Of course, we have proper rules and regulations for conduct. Yes, and they should be subjected to censure if they didn't do all they could to contribute to the physical well being and the spiritual well being of their workers during those arduous hours of work. That is not the significant thing, that they have the rules. Where and when do these rules take effect upon the workers or employees? Where and when do they become employees? They become subject to those rules and regulations and they become employees when they come upon the premises at the time they begin the day's work. There is no rule or regulation or otherwise trying to regulate the conduct of the employees on the way from their homes to the checking-in place. The rules and regulations apply to the employees after they begin their day's work. That is the purpose of the rules and regulations. It confirms the fact they are employees of the plaintiff at the time the rules and regulations and orders, both written and unwritten, are taking effect, and are exercised and actually put into performance by the management and by the plaintiffs and their agents in this case.

Why, the undisputed evidence shows that they have the right, and even do exercise this right to an employee before he starts down on the man trip,—order him to do certain other things, give him instructions. The undisputed, overwhelming evidence shows that. Work? Yes. And in addition to that they get their carbide light as the first thing. They come there first, after dressing

and washing at the bath house, with their work clothes on, get their carbide, check in, subject there and then to the orders, rules and regulations, verbal or written, and to perform their duties in accordance with such rules and regulations and orders; pick up their tools, come and get extra help, and carry tools on their way to the so-called working places. That is just a part of the working place. The working place, may it please the Court, is from the entrance, when they hang up their check and get their carbide and go on performing their duties subject to the orders, rules and regulations of the plaintiffs. The working place is from then on,—just a difference in degree,—and that working place continues until they check out in the afternoon. Who denies that under this evidence? Who can deny it? Who does deny it?

Employ means to suffer or permit to work. That wasn't thrown in there by accident by Congress. If you do that thing, no matter what your requirements about an eight hour day are, no matter when you contract or how you contract, if you suffer and permit, and they held, may it please the Court, under the "Hours of Service Act of 1907", where railroad and telegraph employees were forbidden by their employees to work longer than sixteen hours, to suffer and permit means that is to work if they perform unless you prohibit that performance. Talk about a contract! Talk about forfeiture! Talk about waiver! There were penalties to that act, and it has been enforced. But they also held that if a railroad or telegraph company permitted or suffered its employees to work they were subject to the penalties, and they also held directly that to suffer or permit; that is suffering or permitting unless the company prohibits them from so working. Talk about precedent and what Congress had in mind. Just use a little common sense,—that is all. Yes, and I do say it, that in the absence of a judicial construction to the contrary, Interpretative Bulletin 13 is

the "Bible" for the industries and business concerns in this country doing business in interstate commerce and manufacturing goods and shipping goods in interstate commerce. Do they deny it? Who has authority, may it please the Court, to set aside, modify or do away with the Administrator's opinion? Only one tribunal in all this great country, and that is a Court of competent jurisdiction. It is the law until declared otherwise by a Court of competent jurisdiction. I think that the Court judicially knows that many industries, without long and expensive litigation, are trying to comply and are complying with the principles laid down in Interpretative Bulletin 13 as to so-called travel or waiting time. Those principles are not difficult. They are general. Some industries have no traveling or waiting time in this country that are engaged in commerce, some have a little, others have more.

You can't tell me, may it please the Court, whatever Congress had in mind it didn't have in mind this proposition: That on and after the effective date of this act, if an employer suffers or permits an employee to do or to perform work within the meaning and interpretation of that act he was not to be paid for it and that he could not waive it.

Let's see, Your Honor. I think it is pertinent, if for no other reason—there are a number of Alabama cases. I have only one. It is upon what they have said with reference to work time. It is the case of Benoit Coal Mining Company versus Moore, 109 Southern 878. The Court, among other things, said—the evidence, Your Honor,—I think it is pertinent too—

The Court:

Is that a Workmen's Compensation Case?

Mr. Quinn:

Yes, sir, how they have been paying compensation. It throws light on how the Courts in Alabama, in many instances, have paid—

The Court:

I don't think that law is applicable here.

Mr. Quinn:

I thought perhaps it was, Your Honor, on the question of when they are at work.

I will read this,—just one little excerpt. It is from the case of the City of Milwaukee versus Althoff, 156 Wisconsin 68, 145 Northwestern 238. Our Court presented that with approval in this case of Benoit Coal Mining Company versus Moore. We take the following pertinent excerpt therefrom:

"In the instant case, when the servant reported to his foreman and received his instructions for the day and proceeded to carry out these instructions by starting for the place where he was to work, we think the relation of master and servant commenced, and that in walking to the place of work the servant was performing a service growing out of and incidental to his employment."

Mr. Brodie cited you the Hours of Service Act and many authorities. I just want to read what the Court said, and I have read only the notes under that act.

Section 62, USCA, Title 45: "Railroads: Require or Permit: 'Permit' as used in this section does not imply knowledge and consent, but in view of the legislative history—" No, this had a legislative history,—"of the act is synonymous with suffer"—Permit is synonymous with suffer.

Mr. All:
Will you give me a citation?

Mr. Quinn:
Section 62, under that the notes.

Mr. All:
What is the book?

The Court:
Title 45.

Mr. Quinn:
Title 45, Railroads, page 556.

The Court further says—

The Court:
556?

Mr. Quinn:
Yes, sir, page 556.

The Court further says, "It is urged that the words 'require or permit' imply consent or knowledge on the part of the employer, and this is perhaps their common significance;"—I will read that again. "It is urged that the words 'require or permit' imply consent or knowledge on the part of the employer, and this is perhaps their common significance; but the word 'permit' also means a failure to prohibit by one who has the power and authority to do so."

So, may it please the Court, for the sake of emphasis, and I repeat, and then I am through: Where, in carrying out these simple words, the employer does not prohibit his employees from working, but suffers or permits them

to do so, regardless of the contract he may have with them, he must pay them.

I think Judge Smith has a few words.

Mr. Smith:

May it please the Court, I will be as brief as I can.

Mr. All, this morning, kind of set a text which I am going to follow. He said that Congress looked out on a scene and what did it see? Then, he said, the Administrator looked out and what did he see? Well, I am going to amend that by including the Court that is trying this case now and see what he sees.

They have gone into the purpose of Congress, what it knew and didn't know and the history of it; they have gone into the report of the Commissioner in holding these hearings and what he say and we have been here, I think this is the eighteenth day, letting Your Honor see what you could see.

Now, there have been two lines of thought in this case as there are in mighty near all lawsuits, and that is the viewpoint of the officers and employees of the companies in running these ore mines. We have had the testimony of these splendid gentlemen here who have devoted long heard to the mining business and who have gotten up to top places at this time where they can sit in the swivel chairs and have reports made to them, and on the other hand we have the ordinary run of American citizens and Alabamians. I believe in this case of all the witnesses testifying on behalf of the defendants, there wasn't but one of them born outside of Alabama,—some born in Blount County where you came from, some in Montgomery County, and some in Perry County where I came from, and some from Calera, all around us, and one man showed up from Georgia who has been here many years.

So, we have those people to testify to what they actually do, the concrete facts right fresh under the now existing conditions, and who is better able to know about what goes on down in those mines than the man who actually reports there at six o'clock in the morning and takes every single step in the operation of that mine until he gets back?

Now, Mr. All made a great deal of fun about hanging up a check, that it didn't amount to anything. Why, of course, it does not amount to anything; it is just a starting point. It is like an engineer, when he his surveying a piece of property, if the Court please. He has to get a point of beginning. And the hanging up of that check, according to our contention, is the point of beginning of going down in that mine and back to that point at the end of the day,—what has been referred to as the collar of the mine.

Let's see what this is. Is it work or play? If it isn't work it must be play, and if it is play there must be some kind of pleasure about it, there must be some kind of thrill about it that we don't know about. Now, let's trace it down there by actual people that go down there day in and day out, but before we do that let me call Your Honor's attention to the progress that has been made in ore mining in the district here.

We have gone back to where ore mining first began, in its primitive stage, where you started down and dug the ore out in the open. Different conditions existed there then. We had one witness, Mr. Praytor, who testified he had been there seventeen years, and in that seventeen years the place where he started in and the place where he is now working had changed by one mile,—one mile going and one mile coming. Now, that is just one physical progress in the operation of that mine; that is just one thing a man has to do, two miles longer than he used to have to do seventeen years ago. There has been testi-

mony by many witnesses that the mine is progressing all the time.

Now, let's see, just briefly, from these witnesses, if the Court please, that actually do this walking, that actually do this dodging that has been testified to here on this man trip,—let's see whether it is work or play.

In the first place, when you go there you have to go over and bathe and change your clothes. That is very refreshing, taking a bath in the morning, but they don't charge for that. They used to charge fifty cents a month. They don't do that now. We get that free. All right, you get dressed—

The Court:

Some of them charge for that bath house in my recollection.

Mr. Smith:

Yes, sir, some of them do. I think the Sloss still charges. Mr. All?

Mr. All:

Charges for what?

Mr: Smith:

The bath house?

Mr. All:

Oh, I don't know.

Mr. Smith:

It is in the testimony. Your Honor heard the testimony. It is very nice if they are given that free, but there are a lot of things they were not given free. The Tennessee Company said they gave it free; they had made an addition to their bath house. Let's pass the bath house.

Let's start when a man goes there and hangs up his check. Let's take it from the many, many witnesses here who have traced that thing step by step from the time they hang up their check. Who is there? The mine foreman, the assistant mine foreman, the heads of the crews are there, and they outline the day's work, and as to who is present and who is absent, and they are checked in on that skip. They are told when to get in and under what conditions to get in, and they go down on that skip, and Your Honor has heard time and time again—you have seen the spoon fashion, you have seen it illustrated here in Court. Is that a pleasure, riding in a mine car? Walking a mile or so to your place of business? Is that the prelude to what you would call pleasure? I don't think so. But let's get on.

They get down to man unloading station; they are unloaded there, may it please the Court, under the supervision of a mine inspector or assistant mine inspector. Then they start to their places of work. There is testimony here as to the various kinds of tools they take. They take dynamite, fill up a crocus sack with dynamite. Now, anybody can do that that wants to. If that is not a hazard, a man monkeying with dynamite in a crocus sack, I don't know what to say about it. Is that pleasure? If it is, it is mighty foolish pleasure.

Now, we get down to the place where they are going to work. Some have fist muckers and some have mechanical loaders, and I believe, from listening to this thing, I would rather work on a mechanical loader. That would be my choice. They say when you get there—when you get there and get that roof fixed and everything, and when we blow the whistle, we are going to start to work. We say when that work starts; we say it by the whistle. Is that what actually happens? Are they masters of the situation to such an extent they can blow a whistle and start the work whether the work has started or not actu-

ally? That is the issue Your Honor has got to try. It has got to be tried right down those slopes.

Congress knows about it. We have men from here supposed to know about mining conditions. There are men from the iron ore mining district of Minnesota that are supposed to know about it. They have a big corps of investigators and economists to advise them. Don't you know they know about it? Congress knew about the customs that have been described on that stand and that dates back to the time they opened these ore mines on the mountain. It is time—high time that somebody somewhere was ready to change a custom that started back in the gay Nineties in the horse and buggy days and get that ore out. Who would have thought of travel time back there? Why, they would have thought you were crazy. Why, up in Minnesota, where you get in the elevators like you do in the First National Bank Building and come down to your working place, why, I don't think much of travel time in that kind of a mine. They don't know what it is. But we don't have that. We have some cars on which you have to prop your feet and take a kick and hold on; you have to duck your head, and it is operated by a skip tender or a chainer. Some fellow taps on the wire that he is ready to go, and away you go. Suppose that fellow gives the wrong tap, if Your Honor please; is that running any risk? Is that pleasure? I think that is something that goes along with very serious business.

Now, my contention, if Your Honor please, is that the working place in one of these mines or all of them we have described here constitutes the mine as a whole, and you can't let an officer of the company go down there arbitrarily and carry a man two or three miles underground like you have heard here over these days and let him say arbitrarily that is the working place,—that is the working place. We say it is; we blow the whistle when you start and we blow it when you stop. How you get

there and how you get back is your own business although you are regulated, may it please the Court, by all kinds of rule books as to what you should do on the premises from the time you put your foot on the premises, as to what you should do on the skip, as to what you do at the man loading station. If you don't do it, what is the penalty? You get fired,—just like the testimony of Mr. Ball they read in these minutes at one of these meetings about his dissatisfaction.

Mr. Burr starts out by saying there was a great controversy about this matter. He then proves there wasn't any controversy; that these men came in and made two little complaints, but there wasn't any controversy.

This very thing, may it please the Court, started back in 1933, according to the testimony, and Mr. Ball, the superintendent, says three times he had it up, and other witnesses here have had it up from time to time and they didn't get anywhere. They couldn't get it.

Suppose Your Honor and myself were making a contract about something and I had a provision I wanted in that contract and you told me three times, "I will not put that provision in there," and I came back again and said, "How about this piece of property; put that provision in there?" "No, I will not put it in there." I go back the third time and make the same request. "No, I will not put it in there." A man would be a monkey to keep on. The law does not require a man to do a useless thing, if Your Honor please. That is one of the elementary settled rules of law. You take here in this Court Room and a lawyer tries to get in testimony; he will do it once; he will do it twice; he will do it three times. Finally Your Honor will say, "Hold on. You have been over that before." You have done that this week. "Hold on." You are the boss.

In making these contracts, Your Honor knows and everybody that has good sense knows that the way that

bargaining went on in making these contracts the company was the dominant influence.

Your Honor remembers the testimony as to what the Sloss Company said. "Why, we are just a little company. We can't do it unless the big companies do it." There you go. It is not in there. Are they estopped for that reason? By failing to do a useless thing? I don't think so. I don't think the law says so.

The law has been read to Your Honor. I am just taking up these facts that seem practical to me, and I have just confined my consideration to right down the manways of these mines and back.

You have heard the tools they have there, the hangers and wedges and oil and dynamite and other things. Why, I got to dreaming at night about the materials that go down in those mines. Now, the testimony shows, if the Court please, by the men who actually carried them, that they were taken down there, and it was the custom to take them down there, and they took them on that man trip—man skip, and they took them from the man unloading station to the place of work, and some of them brought them back, and some of them took them to the blacksmith shop after they got away from the collar. They left the collar even to go there and carry them.

I say the testimony shows, if the Court please, that these men have been worked there arbitrarily eight hours at the face, and the testimony shows they have been in there from nine and a half to ten hours,—an hour and a half and two hours over time, as the case may be, according to the tradition and the custom.

And I say to the Court, if Your Honor please, you have sat here and reviewed the testimony that was taken before Mr. Stein,—both sides here read and examined those witnesses from the testimony taken before Mr. Stein. He said that these things were reasonable. The Administrator promulgated this order after reviewing Mr. Stein's

report and after Stein reviewed the evidence that he took in different places.

Now, if the Court please, there are some things that becloud this case. The coal mine situation is out of it. The pit ore mines, digging in pit ore mines up in Minnesota, is out of the case. The ore mines up there where they have elevators that go down, take them up and down, takes them two or three minutes, is in evidence, but I tell Your Honor that it is not a similar situation to this down here. They mine up there in an entirely different method from what we do here in Alabama. Your Honor let that testimony in. You have let in testimony here as to every ore mine they thought they could get in, and I think it is all right. I think you have got an ore mine investigation and got a good one. I am not complaining about that, but I am calling Your Honor's attention to the fact that the ore mines out here on Red Mountain where we get our ore are not similar to those in Minnesota. You have got to consider this case as to the conditions existing in these mines between October 24, 1938, and May 1, 1941. I don't know what happened in all that time. All of a sudden, on May 1, 1941, they said, "Yes, we are going to comply with that order," and they got everything ready, speeded up, changed the number of cars,—just got ready all of a sudden. I don't know what caused the delay, but there was a change on May 1, 1941. They must have thought it was not so bad after all after waiting from October 24, 1938, to May 1, 1941. I don't know what all the delay was about, but they put it in, and every one of them, the testimony coming in a little bit at the time where they have put improvements in there and speeded up systems and improved the conditions. That goes to show, may it please the Court, that it was good legislation.

Now, if Your Honor please, I hate to close with this sentiment. This is about sanitary conditions in the mines.

The Court:
About what?

Mr. Smith:
About sanitary conditions in the mines. Your Honor has heard the testimony. I don't know whether that would come under work or pleasure. I don't think it would be pleasure smelling the odors that have been described in those mines,—several hundred men with no sanitary connections down there at all. But that is just one of the things that go on in seeing whether it is in keeping with a man's health and all that.

Now, Your Honor, in conclusion, I have tried to confine myself to the actual facts. My experience has been in arguing a case, and seeing cases argued, that if you have some good facts it is a lot better to argue them than a lot of indefinite and uncertain law. These other gentlemen have covered the law and I have tried to cover the thing I started out to, the actual trip down in the mine and back, right from Mr. All's little brass checks, from the beginning until the shift comes back and puts Mr. All's little check up there. That completes the collar to collar.

Now, the things done in there, was that work or did they have to wait until they got down in there and got a pick and shovel and drilled a hole and set off dynamite? I don't think the Court can give that kind of construction to that act in view of the history and testimony of the ore mining business and to the progress this country is making in improving its practices and the conditions of the working people.

I thank you.

The Court:
We will take a five minute recess.

(Thereupon a recess was had from 2:15 P. M. to 2:20 P. M., at which time proceedings were resumed as follows:)

Mr. Harris:

If the Court pleases, it has been my habit the last few months when I had a spare moment to turn in my office and look out upon Red Mountain. In years gone by it was my habit on a Sunday afternoon to ride out in Shades Valley. I had always thought that the mountain and the valley were very beautiful.

After hearing the evidence in this case neither the mountain nor the valley will ever again appear as attractive to me as it did before this case began. I see over a long period of years men working under that mountain. I see them in the beginning picking at the surface of the mountain and then with the progress of time and the work of these men underground they get to a greater and greater depth, and to me there is something as if the mountain or the earth resented the presence of those creatures that were withdrawing the treasure that lay buried there.

I read The Ore Miner where they speak of unseen dangers. I have listened to the testimony where one man said the place was working as if it were something alive, ready to pounce on these men that are working in the bowels of the earth and I see these worked out places on these maps that are introduced, and when Your Honor comes to look at them they will give you a graphic picture of the presence of these men burrowing in the earth over a period that covers mine and your lifetime, and you will see those worked out places and you will see the manways that these men have to travel where danger always lurks, where the roof at some place or other is always ready to fall, where danger accompanies these men from the moment they start underground until the very

moment they step away from the tally house or get away from the very mouth of the mine, and I see men not only with nature fighting them but I see these men working over a period of years for a length of time which to us in this progressive age is a terrible thing. I see a little boy fifteen or sixteen years of age under that mountain twelve hours a day. I see men under that mountain ten hours a day and nine hours a day and eight hours a day, and I see that time counted where they do not take into account any of the toil or any of the labor that those men have put forth increasingly as the years went by and their burrowings got deeper into the earth.

We do not have in this case any problem of what the Wage and Hour Administrator has decided. The Wage and Hour Administrator's opinion is no more binding on this Court than the words of any man on the street. If his words have wisdom Your Honor can listen to them. The administrative action may have persuasive effect but it has no controlling effect with this Court and this Court is not sitting as a Court of Review.

I am not here to defend the investigation that the Wage and Hour Administrator may have conducted, whether he conducted it in Lake Superior or Utah or Colorado or Alabama. I am not here to inquire into the extent of the Wage and Hour Administrator's investigation. Neither are we gathered together in this Courtroom for the purpose of considering a review of Mr. Stein's report. We are gathered here in accordance with the ancient and immemorial custom and habit of the American people and the Anglo-Saxons from whom we got our heritage of law and our blood.

We are here to pass on a question of law and a question of fact between actual living people in an actual world of fact and not of fancy, and the question that we have and the question that is before Your Honor has been stated with clarity in the pretrial orders, and that question I could not improve upon.

And this was not an agreement. It was referred to this morning by the first speaker for the plaintiffs as an agreement. It is more than an agreement. The parties got together and had a day or day and a half of discussion, but the Court entered into that discussion by being present in the form of the Court's clerk and the Court entered an order and here is the order of the Court:

"It was agreed by all of the parties that the following are all of the issues in controversy in this cause:

"(a) What constitutes the working time which makes up the workweek of the underground ore mining employees of the plaintiff within the meaning of Section 7 of the Fair Labor Standards Act of 1938."

That is the question in the case. It is not a question of Mr. Stein's report or Mr. Fleming's opinion. It is a question of what constitutes working time. And in order to ascertain what constitutes working time this Court has been given a picture by the attorneys and by the witnesses of the actual situation that has obtained since 1938 and way back beyond 1938 in the ore mines in this district. And at this point may I say that the Court in getting that picture has not had raw and inexperienced lawyers representing the plaintiffs. Two of the leading lawyers of this state and all the resources of two of the greatest law firms of this state have been devoted to presenting to this Court a picture of what went on and the claims of the plaintiffs have been presented to this Court as clearly and as forcibly as the essential nature of those claims will justify. In fact, from our side of the case it is perhaps unnecessary that I should attempt to argue this case to Your Honor after the argument that Mr. Brodie made this morning. I listened, never having heard him make a speech except on a point of law,

and I thought that he covered the case clearly and concisely and coherently for the Court. I heard part of the speeches of the gentlemen on my side of the table but did not get to hear them all, because I wanted to arrange my own thoughts and avoid as much as possible unnecessary repetition to the Court.

And we have had a clear picture. I don't think there is any doubt but what we have had a clear picture of the ore mining operation in this district, so that Your Honor can look to your pretrial order and can determine what constitutes work time.

These men reporting for work, checking in in their own minutes by one called a timekeeper, subject to orders, carrying on various tasks and duties, carrying tools into the mine, bringing them out of the mine, and at all times carrying with them that one absolutely indispensable thing. As Mr. Burr said, you cannot work underground in the dark. And these men have not only been working from the moment they reported to the Tennessee Company or to the Sloss Company, and when the little man, Jesse Gaines—he didn't use the words, "Here am I," when he testified, he said, "I will go up and see. I am here." And then counsel in cross examination kept playing up the phrase, "Here am I." But when he said, "Here I am" or "I am here" the man had a book and he marked in that book and they were reporting then and they were under orders then and they were at work then and they stayed at work until they checked out.

And if that is not work, what is work? If it is not work for a man to have to crowd in one of those skips, to put his knee up and take his hands and push himself back so his ribs won't be broken, if that is not work then I don't know what work is. If it is not work at the end of a shift to climb a grade thousands of feet and arrive at the hoodlum wet with sweat, then I don't know what work is.

"Oh," but they say, "this is not the actual drilling that we hired you to do." As Mr. Brodie said, the Act of Congress didn't say, "You shall not employ a man more than forty hours a week at drilling," "You shall not employ him more than forty hours a week unless you pay him time and a half for overtime."

To me it is absurd and to any man that has ever lived by the sweat of his face it seems to be absurd to say that men climbing those places, carrying those tools, coming out worn from that heavy toil at the end of a day, to say that these men are not working or putting forth human energy, what is work?

How do men work? Either with their brains or their bodies. In ore mining the man that drills and shoots has to use his brain. All of them have to use their alertness to keep from running into those unseen dangers, and all of them are there putting forth the energies of their bodies from the time they leave the drilling place until they get out and breathe God's fresh air once again.

"Oh," they say, "You are not at the face." I don't care whether any work of art has come out whereby they call it a working place, whereby they denominate it in the Congress a working place, Congress was not legislating for any one industry or any one condition. Congress used a formula that would apply through the length and breadth of America.

If your cook comes to your house to cook your breakfast every morning, is she working or is she cooking when she heats the fire; is she cooking when she is preparing food, or does her time only start when she actually picks up the vessel with meat or the vegetables in it and puts it on the flame? That is the only time the actual cooking is going on.

When Your Honor's secretary reports to your office in the morning and sits there and you don't happen to give

her any work, is she off on a pleasure jaunt, is she at work or is she not at work? She is there under Your Honor's orders.

Suppose these men burrowing in the earth go for three miles and suppose these companies for some reason do not want to sink a vertical shaft, which apparently is the successful way, and let them down at the speed of an elevator in a New York skyscraper, but they don't want to sink a vertical shaft and these men keep going farther and farther and farther underground, the companies say, "Oh, no, that is not work. In 1941 you walk two miles, in 1949 you are walking three, in 1950 you are walking five miles, but that is not work."

I say that that contention is an unwary and fanciful contention. It is as if a great air line company had come to a painter and said, "There is a mountain up here that is in our way and we want directions on it and we will pay you so many dollars a day to paint a sign on that mountain, to put the compass bearings there or an arrow there," and the mountain is high and the top of it is almost inaccessible and the man spends weeks and months getting up there with his equipment and does the work, and when he goes to collect they say, "We have kept books on it. It took you one day and a half to do that painting on that mountain, and that is all we hired you to do was to paint the compass bearings up there."

Are we living in a world where we will ignore the changes that take place? The actual evolution of mining in this area has brought about this problem. The men have borne it and they have borne it not in silence. They have complained but their complaints did them no good. And Mr. All argues and Mr. Burr argues that we want to put on all of this factual history to enable the Court to resolve any doubts in the construction of the act.

I can't find any doubts in that law. That law is so clear to me that it doesn't need any extrinsic facts to make it clear and the thing has been up and other Courts have considered whether or not we need any extrinsic facts.

In the case of *Davies vs. City of Seattle*, decided by the Supreme Court of Washington, 121 Pac. 987, which involved the eight-hour law of the State of Washington, the city made the precise argument which the plaintiffs are making here, and then the Court said:

"The statute is so clear in its meaning and so free from ambiguity that it requires no construction. It means what it says, viz., as applied to the case at bar, that no day laborer shall be required to work more than eight hours a day except in cases of extraordinary emergency, and none is claimed in this case. The appellants offered evidence to the effect that, in the cities of Seattle, Tacoma, Spokane, Everett and Bellingham, a custom has obtained, since the enactment of this law, requiring teamsters to work eight hours a day 'on the job.' This testimony was offered, not for the purpose of showing a custom in conflict with the statute, but as an aid to its interpretation. In all of these cities a teamster is required to harness and hitch his team, drive it to work, work for eight hours 'on the job,' and then return his team to the barn, unhitch and unharness it. In Everett the additional burden of grooming the team is put upon the teamster. These witnesses justifed the custom by saying that the excess time put in by the teamster is not work, but, as they variously term it, 'choring' or 'preparing for the day's work.'

This morning the gentleman objected to calling little chores work. In that same case they made the same argument and used the same words, "preparation for the day's work."

"Such construction is a palpable evasion of the law. The statute is so clear in its provisions that it requires no such aid in its interpretation. The respondents are only asking that it be obeyed."

And that is what we are asking in this case, that the terms of an Act of Congress be obeyed by these companies.

Now, they say, "We want to go into this picture, this ancient history, to show the intent of Congress," and I noted down as the able lawyer who made the first address for the plaintiffs was speaking this morning, I noted down his language, and there is, as he said in another part of his speech, a clash between his opinion and mine.

Never in my life have I come to the trial of a lawsuit where different views are more clearly to be found than in the speech that he made and in the speech that I will make if the thoughts in my heart can be expressed in words. He said that Congress intended—and I wrote it down—that the act shall apply to fixed established customs and practices. He said that Congress intended the act to be consistent with the practices of an industry. He argued that the Congress did not intend to disturb those customs and practices.

My theory and my belief, my faith, is directly to the contrary. Evils had grown up in American industry, evils which were endangering the very life of the republic, and the Congress of the United States, conscious of those evils, looking into the future with its dangers and unseen dangers to fair government, Congress looking ahead, not with the omniscience with which they endowed Congress, but looking ahead saw these evil practices and conditions throughout industry weakening the American Laborer, interfering with the free flow of commerce. Congress, if presumed to be omniscient, Congress had heard the cry of these men down here, "Give us shorter hours. Don't make us go in and out on our own time."

It had heard the cry of those men up in the Lake Superior region, every one of whom said they had been trying since 1935 to get the collar-to-collar basis.

So I say that in an enlightened age and as part of a great forward movement for the benefit of the American people it is absurd to argue to this Court that Congress intended to fix, to solidify and to mold in an iron form the customs and practices that had grown up when the employer was absolute boss and the employee never got a chance to get collective bargaining until the all-powerful arms of the American Government reached out and broke the bands that encircled him, and we have had one enlightened law after another lifting the American laborer from his place of bondage.

And to say that Congress intended to make every existing custom a thing of imperishable crystal which would last forever is, to say that Congress was doing the very opposite which the history of Congressional legislation shows they were trying to do.

Congress was not trying to perpetuate, but to remove; not trying to entrench power which is already in power, but to lift up those to some semblance of equality so that they to a reasonable government might make a reasonable claim to a human right.

And this law which was passed for the working man of America was never intended to be given any strict construction for the perpetuation of evil institutions. This law must by this Court be literally construed.

In Fleming vs. Hawkeye Pearl Button Co., 113 Fed. 2d, page 52, at page 56 the Circuit Court of Appeals for the Eighth Circuit, on June 26, 1940, said:

"The manifest declared purpose of the statute was to eradicate from interstate commerce the evils attendant upon low wages and long hours of service and industry. Accepting this as the declared purpose of the act, exemptions would tend to defeat its purpose. The statute is

remedial, with a humanitarian end in view. It is therefore entitled to a liberal construction."

And in the later case of *Bowie vs. Gonzales,* 117 Fed. 2d, at page 16, the Circuit Court of Appeals for the First Circuit—the case begins at page 11—at page 16 the Court says:

"The purpose of the act is to eliminate from industries engaged in commerce or in the production of goods for commerce the existence of labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency and general well being of workers in such industries and production in order to prevent disruption of such commerce. Such unfavorable conditions are produced by low wages and long hours, and the act is designed to cure those evils. The statute is remedial in nature and should be liberally construed."

The Court:

What is the citation?

Mr. Harris:

117 Fed. 2d. The case begins at 11 and I was quoting from page 16. The title is *Bowie vs. Gonzales,* Your Honor.

So we have a suggestion in this argument about the intent of Congress has gone out the window where the construction is out the window. It is a liberal instead of a strict construction.

And then what is their claim? They say, "Oh, but we have a contract. We have a custom and a practice which has crystallized into a contract. Your men are estopped. You have had collective bargaining." Now, why do they put that in? Because they run across the phrase, "collective bargaining" in the coal industry and then they argue the only answer here to Your Honor

this morning when we all know that there is no eight-hour day in the coal industry; there is a seven-hour day. And he says, "We have a contract with you and you have had collective bargaining."

Can we look for a few minutes into the labor industry of this district here if we have had any collective bargaining here?

They came in in 1933 and 1934 and as soon as they were organized they made their claim for a six-hour day and they made their claim that they ought not to be made to travel—and they actually went so far as to file a charge before the Labor Board—and yet some people would have this Court believe that no question of travel time, as they call it, ever came up. And the unions, did they meet—did they meet as the law of the United States now provides—across the table for actual, bona fide collective bargaining?

So in one of the documents introduced where they talk about recognizing the union was: "We admit you can join this or that just as you can join the church or a lodge or anything else," and these men who wanted their independent organization had to come to them as employees' committees during all the years until this act was discussed in Congress. They had no contract. And they have a strike. And they talk about the members of the union. And they have a strike and in two days after they open up for some reason they shut down.

Not only they wouldn't receive them as members of the union and deal with them as members of the union, but when the Federal Government came in they wrote them letters of understanding. No communications directly with these men who were out there toiling on their properties under the earth.

Read the minutes and Your Honor will get a picture more graphic than my power to portray as to how these men were forced by virtue of their economic condition to submit to orders and domination. And the Govern-

ment representing them, they addressed their communications to the Government, and they don't give them a contract.

And what happens to their union? Their union begins to go to pieces and in '36 and in '37 they have practically no union and where hundreds had attended only four or five attend. And then they were so weak that they were ineffective in getting the kind of contract that they had asked for. And the lawyers for the plaintiffs argue, "You didn't get a contract. Here is the one you got, and this being the one you got that vanishes your claim."

The greater the weakness of the suppliant, the less help he would obtain from his government or from a Court. The greater the spirit to follow a custom, the less remedial effect to be given by a statute. It would only be the small custom or the contract that had a benefit in it that would ever serve.

What this Court is interested in is the actual picture of the conditions that were going on in this district. There was working not only underground in the morning but there was working on the top when these men came out trying to get their right of collective bargaining.

Does the Congress of the United States pass laws for the benefit of the weak or the poor or the helpless or economic subordinate with any expectation that the strong or the powerful can say, "Sign on the dotted line and your contract deprives you of your remedies under the law"? Your Honor has met with in your practice many, many times the release obtained when the widow was grief stricken or the man was under the influence of dope, and no Court has ever given any weight to them.

The Congress of the United States never contemplated, when you talk about the intent of Congress, that the beneficiaries of this legislation should be able to defeat it on account of their weakness and inability to bargain with their employees. And I don't ask the Court to take my ipse dixit for it. There are cases where questions

similar to this have come up. Take the case out in Oregon, I believe, or Washington, *Larsen vs. Rice*, 171 Pac. 1037:

"It is undoubtedly a general rule that private controversies between individuals sui juris may be compromised by them by mutual agreement, and that the Courts will not, where no question of fraud intervenes, relieve from the agreement, even though it be shown that the one gained rights thereby to which he would not otherwise have been entitled, and that the other gave up rights to which he was fully entitled; this is on the principle that compromises are favored by the law since they tend to prevent strife and to conduce to peace and to the general welfare of the community. But the controversy here had an added element not found in the ordinary controversy between individuals. It was not wholly of private concern. It was affected with a public interest. The state, having declared that a minimum wage of a certain amount is necessary to a decent maintenance of an employee engaged in the employment in which the respondent was engaged, has an interest in seeing that the fixed compensation is actually paid. The statute making the declaration not only makes contracts of employment for less than the minimum wage void, but has sought to secure its enforcement by making it a penal offense on the part of the employer to pay less than the minimum wage, and by giving to the employee a right of action to recover the difference between the wage actually paid and such minimum wage. The statute was not therefore intended solely for the benefit of the individual wage earner. It was believed that the welfare of the public requires that wage earners receive a wage sufficient for their decent maintenance. The statute thus being protective of the public as well as of the wage earner, it must follow that any contract of settlement of a controversy arising out of a failure to pay the fixed mini-

mum wage in which the state did not participate is voidable, if not void. Especially must this be so, as here where the contract of settlement is executory, has been repudiated by one of the parties, the parties cannot be placed in statu quo, and the wage earner, by carrying out the contract, will not receive the wage to which she is justly entitled. One has but to glance at the terms of the proposed settlement in this instance to see that the respondent will not receive thereby any just equivalent for the sum which she agreed to surrender. Our opinion is that it is such a contract as the Courts are not required to enforce and that it would be against the policy of the statute so to do."

Then I have heretofore read from this opinion to the Court to the same effect, *City of Glendale vs. Coquat*, 52 Pac. 2d, 1178, where the same thing, only there they dealt with it as an estoppel and say:

"As we have stated in several cases, the minimum wage law is not only meant for the establishment of individual private rights, but is a solemn declaration on the part of the state, that as a matter of public policy it is interested in seeing that its citizens are protected in such rights. It is apparently universally held that where a right has been given to an individual not alone for his private benefit but, as a matter of public policy, in the interest of the state, it may not be waived by anyone.

"'Such conclusion would permit an officer of the state to defeat the beneficient purpose of the statute and violate its provisions. The state expressed its intention as to the rate of compensation, and the fact that claimant accepted a reduced compensation does not estop him from recovering the residue fixed by law.'

"We are of the opinion that plaintiff not only was not estopped from asserting his claim to additional compensation; but that he did not and could not waive it by his conduct in accepting the lesser wage without protest."

Now, there are numerous cases, if the Court pleases, to the same effect as those I have just read to Your Honor.

Men cannot, whether employer or employee, get together and by shrewd manipulation or by any advantage, one of the other, nullify an Act of Congress, neither in the establishment of a custom nor in the establishment of a waiver.

So as I see it, if the Court pleases, we have in the Alabama law the same doctrine and I won't take time to read from the opinions but cite them to Your Honor—in *Hamilton vs. Edmundson*, 177 So. 743, where they held that an officer cannot take less than the salary fixed by law. The same way, a man whose wages have been fixed by Congress, can by no act of his bind himself to accept laws, whether you call it a custom or a contract or an estoppel or a waiver, he cannot bind himself to accept less.

So we come back, leaving out all questions of contract and everything else, we come back to one simple proposition—what is work time within the meaning of the Fair Labor Standards act?

A man does not have to be drilling a drill; he does not have to be running a mechanical loader to be working. One of the greatest judges that this country ever produced, a man whose opinions are a thing of beauty and will be a joy to lawyers forever, Mr. Justice Holmes, in the case of *Missouri K. & T. Ry. vs. The United States*, 231 U. S. 112, with his customary clarity expressed the law very simply:

"One of the delays was while the engine was sent off for water and repairs. In the meantime the men were waiting, doing nothing. It is argued that they were not on duty during this period, and that if it be deducted, they were not kept more than sixteen hours'"—

Notice how his next statement fits the situation here.

"but they were under orders, liable to be called upon at any moment, and not at liberty to go away. They were none the less on duty when inactive. Their duty was to stand and wait."

Then to argue that the men in this situation were not engaged in actual work is to me to ask this Court to forget the essential facts of life and ignore the evidence that has come not only from the witnesses for the defendants but the witnesses for the plaintiffs, and the fact that thousands of men are involved, the fact that they want the Court to pronounce some judgment on a different question to me cannot obscure the test, what was work time? Did the employer-employee relationship exist? Were they subject to orders? In addition to that, Your Honor sees that they were subject to dangers.

A student of war once wrote that in war the proper thing to do is exceedingly simple, and in war the simple thing to do is exceedingly difficult.

As I see it, in this case all the complexities disappear when we consider the words of the Act of Congress which, to my mind, need no elucidation, and apply those words and their meaning to the actual situation that has developed out here under this mountain, and when we follow great principles in the decision of great cases, it matters not whether in Lake Superior, Utah or Colorado, they come and take our decisions or they reject them.

The truly great decision is the decision resting on great and fundamental principles, and in this case the prin-

ciples of justice and reason and humanity lead my mind to the abiding conviction that the plaintiffs in this case are not entitled to a declaratory judgment of the nature they claim, but that these defendants can look to this Court to say, "I make my findings of fact, I make my conclusions of law, and I appoint a Special Master to make the calculations to give you that to which you are entitled under the solemn Act of Congress and which no power on earth can legally take away from you."

(A brief recess was taken at 3:15 p. m.)

Mr. Burr:

If Your Honor please, I wish to take up the argument in this case and present, as well as I can, the issue involved.

I have thought, in reading the pleadings, the answers of the defendants, the opinion of the Administrator, the pretrial order of the Court and agreement of counsel, that the issues was comparatively simple so far as stating it was concerned. I find that if I should be led away to follow the arguments of my friends who represent the defendants in this case that, as I see it, the issue, instead of being enlightened, would be beclouded.

Before presenting the issue as the plaintiffs see it, I want briefly to refer to a few suggestions made by counsel for the different defendants in their arguments.

The first counsel that spoke, representing the defendant-intervener, the Administrator Fleming, took the position that there was not involved in this case the question of traveling time per se, and seemed to take exception to our position that that is the real issue involved. In using the language we did to state this case, we but followed the very language of the Administrator, whom he represents, when the Administrator propounded the following question:

"Must the time spent by the underground worker in traveling from the portal to the face be counted as time worked?"

I don't believe that you could find any clearer language to put it in than in the Administrator's question.

"Must the time spent by the underground worker in traveling from the portal to the face be counted as time worked?"—(irrespective of whether or not any work is done).

In his Modified Portal to Portal Opinion the Administrator answered that question in the affirmative,—that traveling must be counted as time worked without reference to whether any work is done or not.

While the Administrator's counsel takes issue with our assertion of the issue being the question of traveling time per se, he states it the same way when you analyze the argument he makes.

He asserts that the work time begins when the miner "loses his freedom" at the entrance of the mine and ends when he comes to the surface after the shift. Here again we have the question of traveling time of itself being the issue in this case. But Administrator's counsel abandons the assertion of the Administrator in his opinion that the Congress intended the word "workweek" to be one of universal application, and argues strenuously that the evidence as to *local* conditions in plaintiffs' mines make all traveling time work time.

Mr. Quinn, (representing one of the Unions), does not follow the argument of the Administrator's counsel in abandoning the opinion of his client. He adopts it, says it is the Bible, and then extends it,—and well he might, if his logic is good,—by saying that a man's employment, —not work,—begins when he enters the premises of the

employer. Why not, if his logic be correct? Why can you draw a line at the entrance of the mine and not at the gate where the miner enters the premises? Doesn't everyone know that for all times in all plants, almost without exception, men go to the gates of plants, and even punch the clock, but their time at work does not begin until they get to their work benches where production begins, no matter how far the gate is from the place of work? Don't we all know, taking judicial knowledge, and using our common sense, that in these days and times when we are endeavoring to protect the plants manufacturing materials for war,—don't we know a man is stopped at the gate and indexed, photographed and finger printed? Yet, anybody knows that when that man "checks in", to use the words that have been so often used here, he is not at work until he reaches his place of work.

Now, my friend Judge Smith raps his partner in his conception of the case. Ralph says yes, it is a national question, as the Administrator has treated it. (He is right in that respect, as I will show Your Honor before I get through). Judge Smith says, "Oh, no. You must determine this question as to what Congress intended solely by the local conditions that exist where the miner gets in the slope under Red Mountain." He would have you try each individual case of these men by answering this question that is presented here today as to each individual miner, although that is not the issue presented here to the Court at this time. He asks this Court to legislate by a local application of Section 7 of the Act to plaintiffs' miners alone.

And then the last speaker for the defendants,—why, in those deep, resonant tones of his,—I almost wept in sympathy for him as he depicted himself getting gray headed and old sitting on his porch on top of Red Mountain and looking across the way and weeping because of the terrible evils that he claims the evidence shows to exist over here under the mountain across the way,

and which, until now, presented to him such a wonderful and pleasant view. He would have this Court legislate beyond, instead of construe, an Act of Congress.

Why, if there is one thing that can't be denied in this case, it is that when this Act was passed it wasn't an Act entitled an act to cure the terrible evils which Crampton says he has been crying about every minute since he heard the evidence in this case. That was not the purpose of the bill with which we are here concerned. Spoon-like posture in skips, lack of sanitary, underground toilets, things of that sort, if they exist now, they existed before the passage of this Act. Congress was not trying to cure the evils of underground mining when it passed the law. I defy any one to find in this Act any reference to underground mining.

May it please the Court, these gentlemen have gotten so far away from what we are considering that it is impossible to follow them. If what they are suggesting here could be followed, Your Honor would not be only asked to legislate, but to legislate unconstitutionally. What is the basis of this Act? Let's not forget it before we begin discussing its language. Sure, its policy was to cure certain evils, but what evils? Not the discomforts of uncomfortable skips, not the hazards of groaning roofs that will exist as long as we have underground mines,—but the evils, as said by the Supreme Court of the United States in the Darby case,—Your Honor has read it,—it was for the purpose of preventing unfair competition growing out of sub-standard wages or sweat shop wages, as they called it in the speeches before the committees.

Certainly that is not an issue here, because the evidence is undisputed that there is no question involved here of any minimum wages. Congress did not say it would cure these evils which have been so great as to keep Crampton awake at night. If that had been what they were after, do you think Congress would have been so inhuman as to say this is a terrible situation, but go

ahead and work them as long as you please provided you pay them time and a half for overtime? And equally inhuman would be the opinion of the Administrator when you analyze it. That is shown by reading his opinion. Does Your Honor remember the second paragraph of his opinion when he says that lunch time down in that "terrible, stinking, dangerous, unsafe mine" is not a part of the workweek? So, how can anyone say with any degree of consistency or logic that what we are concerned here with is eradicating the evils of underground mining, and particularly the evils that exist over here in these slopes in Red Mountain?

No, Your Honor, that is not the issue. The issue in this case is so plain that even though Mr. All has pointed it out to Your Honor, I want to emphasize it.

In the first place, before we get to the issue, you must remember that there are two classes of defendants in this case. We have the Administrator, whose opinion one of the attorneys says is the "Bible", and whose opinion, another attorney says, may be the words of a wise or a foolish man,—he doesn't know which. He is one defendant. We are not concerned, as far as that defendant is concerned, with what happened in violation of the Act, if his opinion is right, prior to May 1, 1941, because the Administrator has absolved us, in his opinion, from any prior risk so far as he is concerned.

The opinion says: "General Fleming announced, however, that because the Division has not heretofore taken a definite stand on the various problems involved, it would not seek to compel the payment of restitution from mine owners who have been operating on a face to face or other basis inconsistent with the principles outlined in the report."

Therefore, so far as the Administrato. is concerned, we are asking,—and he has come in here and joined in the

request by asserting, in his answer, the correctness of the opinion, while, his counsel, in a way, denies the underlying logic and principle,—under the compulsion of having to comply or take the consequences while the matter is being determined in Court,—we are asking the Court to tell us what the Congress intended. Did it intend, as asserted by the Administrator, without reference to the hazards or perils or lack of Chick Sayle houses or crowded skips or "spoon fashioned" posture, or anything else,—did it intend that so long as a man is underground he is at work? That is what his opinion says, and there can be no question about it.

Now, let's have some common sense about this thing. Can't you see, so far as defendant Fleming is concerned, and so far as the future of these plaintiffs is concerned, every bit of this evidence they have talked about, as if they were talking to a jury or an assembly of people met for humanitarian or sociological purposes, about the hazards of mining and so forth and so on, hasn't anything in the world to do with this case? Why, if "checking in" has got anything to do with the future, the Tennessee Company could do like the Sloss Company ha done for thirty-five to fifty years,—not have any brass checks. They don't have to have any brass checks for the future. If riding on a skip, because one has to stand up and hold on or get in a spoon-shaped position is the trouble, why, the plaintiffs, so far as the future is concerned, can place cushioned seats in the skips and thus add to the comfort and happiness of the employees as they ride underneath the ground. If the question of the "groaning, creeping, falling roofs" is the trouble, if plaintiffs can't eliminate these hazards they can alleviate them so far as the future is concerned. So with everything in this case. Tool carrying,—and before we get through I will have proven to Your Honor that they haven't proven any tools carrying in this case except in the case of a few individuals,—but if Congress intended traveling

time should be work time because somebody carried a tool or two, all we have got to do, so far as the Administrator is concerned, to comply with his opinion, is to make them quit carrying tools, even though they want to and do it for their own convenience to save a double walk. So, I say the only proposition,—the only proposition so far as the defendant Fleming is concerned, is traveling time per se, or to use his own language:

"Must the time spent by the underground worker in traveling from the portal to the face be counted as time worked?"

In other words, if plaintiffs don't allow the men to "check in", or to carry a tool; if they provide the most commodious, air-conditioned skips with cushioned seats; if they light everything in the mine like this Court Room is lighted; even if they remove every hazard, even then under his opinion,—even then plaintiffs must pay those men for their traveling time. And plaintiffs have been warned in unmistakable language if they don't—if you don't do that in the future,—I have absolved you from the past, but if, after May 1, 1941, you don't compute and pay for traveling as work you must take the consequences of the penalties I have the power to enforce under the Act.

May it please the Court, as to defendant Fleming the issue is unmistakable. It is equally unmistakable as far as the other defendants are concerned. All of them at the start were like Quinn. All of them said in their answers that the Administrator's opinion is the "Bible",—it is right from "kiver to kiver". The only difference between their position and that of defendant Fleming is that they are concerned not only with the future, but are seeking recovery for the past, while the Administrator, insofar as he can, has granted full remission of all past sins.

Now, what did we ask Your Honor to do, and what did Your Honor set this case down to be heard on at the present time? I want to read one part of all the complaints I don't think Mr. All read. These complainants were prepared specifically for the purpose of trying to get a determination of a comparatively simple proposition, and to exclude all these collateral matters which can be handled later if they have to be handled.

Take the illustration one of these lawyers used this morning, or the attempted illustration, the skip tender. He claimed that because plaintiffs paid skip tenders from entrance to exist so also they should pay all other employees. Why, the skip tender is just like Your Honor's stenographer or cook to whom Mr. Harris referred in his argument. The skip tender is there at work running the skip for nine hours and being paid for nine and a half hours,—from entrance to exit,—at work running the skip while the other employees are being transported to their working places.

Now, here is what we say in the complaint.

The plaintiffs assert, "That no part of the time (unless some actual service for the plaintiff is performed) spent by its underground employees in the bath house or in going from and to the bath house to or from the portal, or to and from the underground man loading station from or to the portal, or to or from the actual working places of the employees from or to the underground man loading station constitutes part of the workweek."

The Administrator says that it does not make any difference whether service is performed or not, and without reference to dangers and perils, and so do these gentlemen in their answer.

And here is the question presented that Your Honor is called upon to answer:

"Did the Congress, in the enactment of Section 7 of the Act, intend that the workweek of plaintiffs' underground

employees should include any portion of their time spent in being transported or walking to and from their usual places, and while not engaged in any physical work or service for the plaintiffs?"

Turning again to the Administrator's opinion, he has, in one respect, rightly laid down a proper rule of construction, as I see it. He said, as Your Honor will recall, in addition to the traveling time that was spoken of in the first part,

"The workday also includes the aggregate of the time spent on the surface in obtaining and returning lamps, carbide and tools and in checking in and out."

Well, if that is true on the surface, can you tell me or can any man explain to anyone that has got any common sense at all why the same thing wouldn't be fair and true after you leave the top of the mine? If you are going to pay the man—if he is entitled to pay for the actual time—as was the case at Muscoda, during a portion of the time,—if you can pay him for the actual time that he spent in work when he went to the bath house before reaching the portal and got his hangers, wedges and jack hammer steel,—as the Administrator says he must be paid for,—why can't you pay him in the same way for the same time, if he spends any time after he reaches the portal in getting and carrying tools before he goes to his working place? What right has anybody, irrespective of the intent of Congress,—what right has Your Honor or I, these gentlemen or the Administrator to say, "Oh, well, I will take a guess at it; I will say you have got to commence paying them when they get to the entrance"? Your Honor knows the fair way to consider that, the way it will be considered if the point is raised by an individual employee. If there is an em-

ployee working for my client that can show he was required, beyond the eight hours he contracted to give his service, to get tools or carry tools or perform work, he is entitled to be paid for that work, but he is not entitled to have added to his other time the time spent solely in traveling.

Now, I am talking common sense. If he is right,—if the Administrator is right,—and he is right in that respect,—if any employee at Muscoda not only was required, but was permitted or suffered to do any actual work by getting his tools at the carbide house and carrying them to the portal, he is entitled to be paid just like the Administrator says he is,—for the aggregate of the time he spent in that work, but he is not entitled to be paid for traveling time, and you can't draw a line here, under those conditions, instead of drawing it over here at the carbide house, or drawing it at the entrance of the mine, instead of drawing it, as Mr. Quinn would have it drawn, at the time he sets foot on the premises of the employer.

The answers of the defendants in this case adopt word for word the opinion of the Administrator. In order that may stick in Your Honor's mind, I want to read it briefly. This is the union's answer:

"For a further separate defense, these defendants allege that under the Fair Labor Standards Act of 1938 the workweek for the employees of the plaintiff engaged in production of goods for commerce includes all the time when a miner reports for duty as required at or near the collar or portal of the mine, and ends when such miner reaches the collar or portal of the mine at the end of the shift, and all of the time spent on the surface in obtaining and returning lamps, carbide and tools, and checking in and out."

That is the word for word, punctuation for punctuation, the opinion of the Administrator, and then when you take up his answer he alleges:

"Intervener alleges that the proper interpretation of Section 7 of the Fair Labor Standards Act of 1938 is as set forth in the opinion and report, a copy of which is annexed to plaintiffs' petition as Exhibit A."

Then, in his answers to interrogatories he reaffirms this and deposes:

"I intend to follow the interpretation in question unless directed otherwise by the authoritative ruling of the Court, or unless I should subsequently decide that my prior interpretation is incorrect."

So, may it please the Court, we must submit, getting away from many side issues that have been brought into this case, that the question that Your Honor is considering here today is:

Did Congress intend by the use of the word "workweek" to include as work all time spent underground?

That is what it is. That is what it is. Or to use General Fleming's question, which I would as soon adopt:

"Must the time spent in traveling from the portal to the face be counted as time worked?"

Now, may it please the Court, I haven't time to cover it all, but I want, as best I can, to show you, and I make this assertion and challenge anything to the contrary,—I make this assertion:

That by every cardinal rule of statutory construction that has been adopted and followed by every Court in the country the interpretation they are asking you to make here today can't be made.

Now, what are some of those rules, to take them up as rapidly as I can?

You, first, in considering this threshold question,—you must first follow the rule that the words of a statute are to be taken in the sense in which they would be understood by the man in the street,—Congress must be presumed to have used words in their common and ordinary acceptation. If there is no ambiguity the Court must follow the language of the Act.

Now, there can't be any doubt about that being the law. I will briefly give Your Honor some of the citations, using first the decisions of the Supreme Court of the United States.

United States versus Ishman, 17 Wallace, 426-507; 21 Law Edition 729:

"The words of a statute are to be taken in the sense in which they would be understood by that public in which they are to take effect."

We will show Your Honor before we get through that the word "workday" at the time of the enactment of this law was unanimously, by every one, considered in all mines on the working place to working place basis.

"Science and skill are not required in their interpretation except where scientific or technical terms are used."

Old Colony Loan Company versus Commissioner of Internal Revenue, 280 U. S. 562; 52 Supreme Court 211-213:

"The rule in construing statutes which should be applied is established by many decisions. The Legislature must

be presumed to use words in their common and ordinary significance."

And in the case of United States against American Trucking Associations, 310 U. S. 543, uses this language:

"In the interpretation of statutes the function of the Courts is easily stated. It is to construe the language so as to give effect to the intent of Congress. There is, of course, no more persuasive evidence of the purpose of a statute than the words by which the Legislature undertook to give expression to its wishes."

The Court:
What is the citation?

Mr. Burr:
That is the United States versus American Trucking Association, a recent opinion, 310 U. S. 534.
If Your Honor would like to have this, I have a list of the authorities I expect to use.

The Court:
Thank you.

Mr. Burr:
There is the recent decision,—Fleming versus Belo Corporation, Fifth Circuit Court of Appeals, decided June 27, 1941,—I am going to read because it is so persuasive on these propositions. That decision is by the Court that is our immediate superior here in which they emphasize that same thing, and then they go further and say even when the language can not be clearly understood that the first thing the Court, in construing the statute, ought to do,—and that is common sense,—is to look at the other parts of the same act throw on the language that is in

question. In this case our Circuit Court of Appeals says:

"We cannot agree with appellant that the statutory words under consideration, 'regular rate at which he is employed', are at all ambiguous, or that for their construction they require resort to the declaration of policy and the legislative history of the act. We think it is clear that their meaning is plain and simple and their application equally so. In cases where there is no express agreement as to the regular rate at which the employee is employed, but only an agreement for a weekly wage, appellant's method of arriving at the regular rate by assuming that the wage stipulated for is not intended to cover overtime worked, would, we think, be unexceptionable. But in cases where, as here, the contract of employment fixes the regular rate, that method will not do, for here within the very words of the statute, 'the regular rate at which he is employed', is fixed as to each employee in his contract of employment.

"But, if we could agree with appellant, that the words of the act are ambiguous and that for its construction, resort to the purpose clause and the legislative history of the act is necesssary or proper, we can find nothing in either to support appellant's view. Section 2 deals with doing away with a substandard, and the establishment and maintenance of a minimum standard of living. It says nothing about spreading the work or reducing hours of work. Section 3 declares it to be the policy of the act, through the exercise by Congress of its power to regulate commerce, 'to correct, and as rapidly as possible, to eliminate substandard conditions of employment, without substantially curtailing employment or earning power.' Section 5 provides for industry committees whose business shall be to make the recommendations provided for in Section 8. Section 6 provides what

shall be the maximum weekly hours, during which an employee may work at the regular rate at which he is employed, and that, except where as the result of collective bargaining, employer and employee otherwise agree, for every hour over, that he works, he shall be compensated at a rate, not less than one and one-half times the regular rate. Section 8, the section which implements the policy section of the act, provides in Sec. (a), 'with a view to carrying out the policy of this act by reaching as rapidly as is economically feasible, without substantially curtailing employment, the objective of a universal wage of 40 cents an hour in each industry engaged in commerce or in the production of goods for commerce * * * the Administrator shall from time to time convene the industry committee for each industry * * * and it shall from time to time recommend the minimum rate of wages to be paid under Section 6.'

"If then, we are, as appellant contends, to find the meaning of the act, its prohibition and commands, not in the language of its implementing clauses, which the Congress has chosen to express that meaning, but in the general purpose, thought to animate it, the title of the Act, 'Fair Labor Standards Act', the complete absence from the act of any prohibition against or limitation upon the making of agreements by employers with their employees, the expressions in Section 2 (doing away with substandard and the establishment of a minimum standard), and particularly the provisions of Section 8 (universal wage of forty cents an hour), would compel us to conclude that the purpose of the act is to establish and gradually raise minimum wages, that the overtime provisions in it are inserted not at all to discourage or limit overtime work but as a part of the scheme to raise substandard wages by providing a definite pay for overtime work when such work is required; and that nothing in it purports to or does at all impair the right of employer and

employee to contract as they have done here. When we turn to the legislative history of the act, appellant stands no better. For, there is no reference in the whole legislative history to prohibiting agreements between employer and employee, as here, for all inclusive and regular weekly salaries, none whatever to the effect that it was intended that persons already paying more than the minimum wage the act provided, should be compelled to pay still more. The legislative history of the act, while showing as the legislative history of all new and controversial act does some individual differences of opinions, adds up to showing, as to the overtime provisions, only what the act shows, that in broad outline the Congress intended that for overtime work, time and a half, the regular rate of pay at which each was employed, should be paid each employee. How that regular rate should be arrived at, when it was fixed above the minimum, was not, for all that appears in the briefs of the parties, and we have not otherwise had access to the debates or committee reports, dealt with in the debates on the bill, either in the original passage of it, or in amendments offered to it, except to say that wages above the minimum must be left to bargaining between employee and employer. When all is said and done, appellant comes in his argument to this point; that the law should be construed as he contends for, because in the opinion of the administrator, the law would better serve its purpose if it were drawn that way. Appellant overlooks the fact that a legislative act in the United States is not as in some countries a mere general outline by a party or group in power, of the purposes it wishes to accomplish, to be expanded, implemented and given effect by its administrators, in accordance with the general purposes of its proponents. A fundamental fact in American political life, has always been that in the struggle here for laws as means, to make law as liberator effective, there have

alwaye been differing opinions as to the wisdom, propriety and scope of proposed new and controversial laws, and that laws as finally enacted here, are usually the result of a compromise or at least an adjustment of those conflicting views.

Because this is and always has been so, it can be usually said of our laws that the general, not the partial or partisan will, speaks in them. It is because this is so, that canons of statutory interpretation and construction require that statutes must be construed and given effect, in accordance with adjustment of views, and not in accordance with purposes or views, of either the proponents or the opponents of the legislation, which have not been given expression in the statute.

The issue presented here by the claim of the appellant that though the statute does not say so, it must be construed to give full effect to the purpose of placing him as administrator of the act in a tutelary position, the employer and employee in a state of tutelage to him, so that they no longer have a right to fix their wages by agreement, but must fix them according to the legalistic interpretative formulas of the administrator's general counsel, brings this into sharpest focus. It may be admitted that there is a section of opinion in this country and in the Congress, sufficiently collectivistic to prefer the tutelary system for which the administrator contends, and that if they had had sufficient voting power, they would have so provided in the law. It must be conceded however, on the other hand that there is another section of opinion both in the nation and in the Congress, which is not so collectivistic and still believes in reasonable freedom of contract. It is just becaue of this fact legislation is compromise, that the views of the proponents and of the opponents, as to the purpose and effect of the legislative act, are never regarded as of value in a construction of it, and that it is settled law that statutes must be construed in accordance with the intent of the

legislature as expressed in the lanugage of the act as a whole. Its meaning may not be sought by the Courts in the vague *penumbrae* of the wishes and desires of its proponents or its opponents as these are expressed in debates. Particularly, may it not be sought in the purely legal interpretation by the administrator's legal staff, for if this were so, the administrator would find himself, not only in the powerful position he properly stands in, of administrator for the Congress of one of its laws, and plaintiff bringing suit in the name and power of the United States to enforce the law, but, by issuing a binding interpretation of it before he brings his suit, in the position of a judge in his own cause who has written his decision beforehand.

For us to agree that such interpretations are binding on us would require us to entertain the view, the contrary of that uniformly taken both by Congress and the Courts, that law as well as fact, should be and has been delegated to the administrator. The authorities in support of his view that the administrator's interpretation should be followed here, do not, we think at all support him. In the *Trucking Company* case, the majority clearly states the applicable rule. 'There is, of course, no more persuasive evidence of the purposes of a statute than the words by which the legislature undertook to give expression to its wishes. Often these words are sufficient in and of themselves to determine the purpose of the legislation. [* * *] When the meaning has led to absurd or futile results, however, this Court has looked beyond the words to the purpose of the Act. Frequently, however, when the plain meaning did not produce absurd results but merely an unreasonable one "plainly at variance with the policy of the legislation as a whole" this Court has followed that purpose, rather than the literal words * * * The interpretation of the meaning of statutes, as applied to justiciable controversies is exclusively a judicial function. This duty requires one body of public

servants, the judges, to construe the meaning of what another body, the legislators, has said.' The interpretation given weigh there was the settled practice of the I. C. C., as to its jurisdiction under the Motor Carrier Act, both before and after the enactment of the Wage and Hour Act. It was not, as here, the purely legal opinion of the administrator's counsel nor was it an interpretation which would abrogate the right of contract, to substitute an arbitrary, for a conventional method of arriving at the regular rate at which each employee is employed.

"It is true, that as quoted in appellant's brief, the opinion did say at page 549, that 'contemporaneous construction of a statute by the men charged with the responsibility of setting its machinery in motion, of making the parts work efficiently and smoothly while they were yet untried and new', was entitled to great weight. But this was a quotation from the opinion of the Supreme Court in *Norwegian Nitrogen Company v. U. S.*, 299 U. S. 294 at 315, a reference to that case and the authorities it cites, makes it entirely clear that the Court was not intending at all to depart from the established rule; that where a statute is ambiguous or uncertain, the practical interpretation by the Executive Department charged with its administration is entitled to the highest respect and, if acted upon for a number of years, will not be disturbed except for very cogent reasons. *U. S v. Moore*, 95 U. S. 760; *Logan v. Davis*, 233 U. S. 627; *Brewster v. Gage*, 260 U. S. 336; *Favcus Machine Co. v. U. S.* 282 U. S. 378; *I C. C. v. New York, N H. & S. RR. Co.*, 287 U. S. at 190. It was certainly not intended thereby to announce the new and heretical doctrine put forward by the administrator, that the newer the statute, and the more recent the legal interpretation of it by the administrator's counsel, the more binding that interpretation on the Courts.

"The *Darby* case is not authority for, it is authority against appellant's contention that the purpose of the act was to spread the work by discouraging and penalizing overtime work and pay. In the *Darby* case, the Supreme Court said of the act that the motive and purpose was, 'plainly to make effective the Congressional conception of public policy that interstate commerce should not be made the instrument for competition in the distribution of goods produced under substandard labor conditions', and again at page 122, 'As we have said the evils aimed at by the Act are the spread of substandard labor conditions through the use of the facilities of interstate commerce for competition by the goods produced with those produced under the prescribed or better labor conditions', and again on page 125, 'Both provisions are minimum wage requirements compelling the payment of a minimum standard wage with a prescribed increased wage for overtime of "not less than one and one-half times the regular rate" at which the worker is employed.' There is nothing here about spreading the work, nothing about penalizing overtime, nothing about abrogating the right of contract, nothing about requiring an employer to further raise wages already far above the substandard struck down and the minimum standard set up in the act.

"Freedom of contract, within constitutionality valid limitations is, in the United States of America, one of the fundamental freedoms, and this particularly so in regard to labor relations. When, then, it is contended, as here, that a statute has cut off or limited this freedom, a litigant, must point to language clearly and validly so providing. There is no more authoritative principle in the field of labor law than that, subject of course, to valid statutes designed to prohibit substandard conditions and unfair labor practices, wages, hours, and work conditions are the proper subject of contract between em-

ployer and employee and their agreements must be, and are, given full effect in the Courts."

Now, what is the language that is in question here? There isn't a word in Section 7 about underground ore mines; there isn't a word about any kind of mines. There is the universal statement with a universal application to all employers that the "workweek", or to reduce it to a day basis, the "workday" shall not exceed the stipulated number of hours per week or per day.

Now, what sort of workweek, when Your Honor puts yourself in the shoes of Congress,—what sort of "workweek" was Congress legislating about,—looking first at the word "workweek"? What would you have been talking about if you had been up there in John Bankhead or Hugo Black's shoes at the time? You would have thought about the workweek that was existing at that time, wouldn't you? You couldn't have had any other thought. You wouldn't have thought about a workweek that some one else, like our friend Harris, awakened by testimony and growing sleepless at night might think about. You would have considered the existing workweek and that is what you would have legislated on. You would not have considered an entire change in existing custom and contracts. And if anything ever was clear, you get the same idea of "work" in reading throughout this entire Act.

I want you to follow the Act. First, take Section 7, and as I read it, we can refer to other parts of the Act. It begins, "No employer shall, except as otherwise provided in this section, employ—"

Now, what do these gentlemen here try to convert it into? They stop right there. They say what Congress said was if you are in employment, subject to direction on the plant's premises,—that is what the Congress intended. If that is what they meant, they would have stopped right there. But paragraph (g) of Section 3 of the Act defines "employ" this way:

"'Employ' includes to suffer or remit to *work*."

Does it say "to suffer or permit to be in your employment?" No. It says, "to suffer or permit to *work*."

Now, would any man in the street ever understand the word "work" to mean walking or riding to a place of work, assuming you do not act of service or work on the way? Whether it be inside or outside of a mine, the statute doesn't make any difference between the two.

The Act goes on:

"—any of his employees who is engaged in interstate commerce or in the *production* of goods for commerce—"

What does "production" mean as defined by the Act?

Section (j) of Section 3 provides:

"'Produced' means produced, manufactured, mined, handled or in any other manner *worked* on in any State."

Why, how these gentlemen have studiously gotten away from the word "work". One of them refers to "service" all through his argument; all the others refer to "employment".

I can't help but stop here to say a word about workmen's compensation laws. Your Honor caught it this morning. There is no such a distinction between these laws and this act that I don't for a moment suggest these workmen's compensation decisions could be cited as an authority against our position, but they illustrate how strong our position is. Your Honor knows the Workmen's Compensation Act does not say anything about paying a man who is injured while he is at *work*. Those statutes say pay him if he is injured in the course of his employment. Your Honor will recall a recent case where an

employee of a restaurant, going to work, stepped on a banana peeling in front of her employer's place of business and was injured, and the Court held that employer was liable for compensation.

The Court:

That is the Britling case.

Mr. Burr:

Yes, sir, the Britling case.

The Court:

A lady slipped and fell.

Mr. Burr:

That is right. If Your Honor is interested in that decision as illustrative of the distinction to which I referred, it is *Barnett v. Britling Cafeteria Company*, 225 Ala. 462, 143 So. 813.

Most forcibly emphasizing the distinction and the inapplicability of these cases are two cases decided by the Alabama Supreme Court against the same employer,—W. P. Brown & Sons Lumber Company. In one of these cases the Court held the plaintiff was entitled to recover workman's compensation although he was not an employee of the defendant (*W. P. Brown & Sons Lumber Company v. Crossley*, 230 Ala. 403; in the other case where, as in this Act, proof of the relationship of master and servant was necessary to recover, the Court held that the plaintiff could not recover because he was the employee of an independent contractor (*W. P. Brown & Sons Lumber Company v. Rattray*, 192 So. 851).

To the same effect are the following cases:

Grady v. Nevina, (N. J.), 189 Atl. 669;

Wista v. North Butte Co., (Mont.) 210 Pac. 332, 64 Mont. at pages 289-290.

If Congress had intended to do what these gentlemen are trying to say it did, it would have said so in plain and unmistakable language.

Section 7 continued:

"Engaged in commerce and in the production of goods for commerce."

If the intent of Congress has been as these gentlemen have contended here, Congress would have stopped there, but it didn't stop there. It said, "For a workweek".

It is also true that all the other parts of the Act show the intent of Congress equally as clearly, and you can turn to those. For instance, I want Your Honor to read Seition 5. It relates to the employers of industrial home workers, and refers to such an employer as one who directly or indirectly distributed *work* to be performed by an industrial home worker, and in reference to the records required to be kept, demands, among other things, the following information "with respect to each such industrial home worker engaged on *work* distributed directly by such employer, or indirectly in his interest."

Then, quoting from the Act, again, Section (d) says:

"With respect to each lot of *work* issued;

"(1) Date and hour on which *work* is given out to worker and amount of such *work* given.

"(2) Date and hour on which *work* is returned by worker, and amount of such *work* returned.

"(3) Kind of articles *worked* on and operations performed" and so on throughout every sub-section the word "*work*" is used, and not the word "employment".

Well, I was just thinking, when they were talking about all this crowded condition,—I was just thinking of where sweat shop wages really exist,—up in the crowded cities of Chicago and New York, and yet under the interpretation these gentlemen would have Your Honor give to this Act, every sweat shop worker in New York or Chicago, when he goes to the left to get his material and takes the material home, and then gets on a crowded subway and brings the finished goods back to the loft would, under the Administrator's interpretation, be engaged in work, notwithstanding the language of the Act itself.

You find that the intent of the Congress is also clearly shown in Section 13 of the Act which relates to fishermen. That section gves certan fishermen exemption from the Act, and says included in the exemption must be the time spent in going to and from the fishing.

And yet defendants' counsel say that the Congress could not speak its intention, could not define "work" because of the thousands upon thousands of different local conditions. If Congress had intended to legislate as these gentlemen would have them legislate for underground mines, all it had to say or do was put in there what two States in the Union, as I will show Your Honor, did put in their laws, and what all other states have refused, wherever it has been raised, to put in their laws,—a simple provision that in underground mines work time shall start at the portal as they go in, and end at the portal when they come out.

So, we see, as we look at the Act, there can't be any doubt about this construction.

That is the first cardinal rule of construction to which I have called Your Honor's attention.

Now, what is the next one?

Nobody has ever denied this. They have talked all around it, and they have been running from it ever since this case started. Why, defendants' counsel would have

you put yourself in a vacuum in trying to place yourself in the shoes of the Congress: He says that you can't consider anything except what has happened since October 24, 1938, and until May 1, 1941. Defendants' counsel was right when he quoted me as having said,—and I will say it again,—if that is the law you might as well throw our cases out of the window, but when you do throw out with them the decisions of the Supreme Court of the United States and of every State in the Union which says that the thing you must consider in getting at the intent of Congress primarily, if you have any doubt about the matter, if the language of the Act doesn't show it,—the thing you consider first in considering Congressional statutes is the federal background of the Act. I don't have to re-read the authorities that have been cited here by my associate. You will find none to the contrary. I do, however, wish briefly to comment on the facts of one of them because it shows how far that rule of construction goes. I think it was the Baltimore & Ohio case where the Court said, in construing a statute they would go to "Merrie Olde England" and consider the statute whose language had been substantially used, and if the interpretation of the English administrative officers had been fixed prior to the enactment of the law over here, that when our Congress adopted it, it adopted it along with this interpretation and administrative enforcement. In this case (*Interstate Commerce Commission v. Baltimore & Ohio Railroad Co.*, 145 U. S. 263, the Supreme Court of the United States said:

"—It may be presumed that Congress, in adopting the language of the English Act, had in mind the construction given to these words by the English Courts and intended to incorporate them into the statute. McDonald v. Hovey, 110 U. S. 619."

The same principle of construction is laid down in *U. S. v. Farrar* (1930), 218 U. S. 624, where the Court used the following language:

"—it is fair to assume that Congress, when it passed the Prohibition Act, knew this history, and acting in the light of it deliberately and designedly omitted to impose upon the purchaser of the liquor for beverage purposes any criminal liability."

The Supreme Court of Alabama well expressed the same rule of construction when it said:

"It is a well settled rule of interpretation, applicable to constitutions as well as statutes, that it is permissible in ascertaining this purpose and intent to look to the history of the law when the instrument was adopted, and the conditions necessitating its adoption."—*Houston County v. Martin*, 169 Southern 16.

Now, what is the federal background? Let's look at that next. First, we will study the parentage of this law. You know heredity has a lot to do with laws as well as with personalities. Where did this law come from? The best article, among the early articles on this Case, was one that appeared in 3 Law and Contemporary Problems, published by Duke University in the summer of 1939, and here is what that article starts out with:

"The roots of the Fair Labor Standards Act of 1938 are deep in a movement that extends back over a period of years, yet it is evidence that the closest relationship exists with the wage and hour standards established under the National Industry Recovery Act."

Well, that is a very good authority, but I want to go to the "Bible" for corroboration of that, and that is the

Wage and Hour Manual. I mean by saying it is the Bible it is not my Bible, but it is the Bible of my friends over here. There are a lot of things in it from which I dissent. On Page 745 you will find stated the following background of the law:

"Background for regulation of wages and hours by the Federal Government was afforded in the National Industrial Recovery Act of 1933, which, through the application of 'codes' to specific industries, set minimum wages and maximum hours for laborers and placed a ban upon child labor. When approved by the President the codes had the force of law. They required in all cases observance by employers of collective bargaining rights.

"Following the invalidation of NIRA by the Supreme Court of the United States in 1935, permanent legislation regarding collective bargaining rights was embodied in the National Labor Relations Act of that year."

NLRA takes care of the bargaining rights of labor. And you know if I wasn't feeling so badly I could have laughed out loud when my good friend over there cried about how the foot of capital on the neck of labor caused the passage of this Act. Under the administration of NLRA can any sensible person doubt the power or ability of labor to take care of itself in bargaining for its rights and in asserting and securing relief for its grievances?

Now, listen. "The other half"—now what is the other half, as the "Bible" says, setting minimum wages and maximum hours for laborers and placing a ban upon child labor?

"The other half of the substantive labor provisions of the earlier act took a permanent form in the Fair Labor Standards Act of 1938."

All right. Congress then was using the National Industrial Recovery Act as a guide to meet the constitutional objections; it set up the National Labor Relations Act to take care of collective bargaining and the rights of labor. And then to protect commerce from restraint and unfair competition it set up the Fair Labor Standards Act and took care of child labor, minimum wages and maximum hours of service.

Well, now, surely, may it please the Court, under these decisions, if Congress was following the policy of an act, as they say they were, and as all of these decisions hold, they not only had the right, but they were charged—the contention of defendants' counsel that there is no proof that Congress knew about these existing conditions; that there is no record brought here that they were discussed in the Congress is absurd—under the decisions of the Courts with the duty of knowing of existing conditions, and they had no business sitting on Capitol Hill if they didn't know what those conditions were.

And what did they know in the very beginning and on the very threshold of this thing? They knew they were passing an act to take the place of a part of NIRA, and they knew—and, as Mr. All said, we are not getting into the discussion of the difference in coal mines and ore mines,—but they knew as Your Honor knows judicially that codes had been established under the NIRA handling this very question.

And I make the assertion—I don't have to make it because if there had ever been a code adopted under the NIRA that put into effect the legislation they try to get Your Honor to enact here, putting traveling time on a portal to portal basis, they would have that Code here,—that no Code was ever adopted and approved by the President which directly or indirectly made traveling time a part of the "workday".

On the contrary, the Bituminous Coal Code, (1933) the only one adopted for the mining industry, expressly provided:

"Seven hours of labor shall constitute a day's work and this means seven hours work at the usual working places for all classes of labor, exclusive of the lunch period, whether they be paid on the day or the tonnage or other piece work basis."

It is undisputed that industry and union,—as Congress did—has followed from the very day this code was promulgated until the present time and until this decision of the Administrator came out the identical language used in this Code.

But, say defendants' counsel, the Coal Code provided for a seven hour day.

Why may it please the Court, the Congress knew, when it enacted the Wage and Hour Law that the definition of "work at the usual working place" had been in universal use by custom and contract as far back as 1898 and during the periods of the ten, nine and eight hour days.

It is, therefore, undisputed that the Wage and Hour Act is the youngest child of NIRA (the oldest being NRA) and that Congress clothed and vested it with the vestments of NIRA, the most essential of which was the definition in the mining industry of "work" as being "at the usual working place."

And you can't gainsay the fact that President Roosevelt not only approved that definition but he approved it as being pursuant to, and in line with, the policy of the act as set forth in Section 1 of the National Industrial Recovery Act which is almost identically the same as set forth in Section 1 of this Act.

And then to come here and talk about having to decide this case by going out on Red Mountain and considering

only local conditions and ignoring the fact that this is a national act applying not only to all mines, but universally to all industry!

But this is not all. We have had a number of other acts, both prior to and subsequent to this act, which used substantially the same language that we are now construing. Take the Walsh-Healy Act. "No person shall be permitted"—to do what? To deal in unemployment? No. To travel? No, no.

"No person shall be permitted to *work* in excess of eight hours in any one day or in excess of forty hours in any one week."

The Supplemental Defense Appropriation Bill which was passed in 1940 says:

"* * * on a basic day rate of eight hours per day"—it is almost identically like this—"and work in excess of eight hours per day shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half the basic rate of pay."

And here is even a later one: The Bill to Expedite National Defense provides:

"That the wages of every laborer and mechanic employed by any contractor or subcontractor engaged in the performance of any such contract shall be computed on a basic rate of eight hours per day and forty hours per week and work in excess of eight hours per day or forty hours per week shall be permitted upon compensation for all hours worked in excess of eight hours per day and forty hours per week at not less than one and one-half times the basic rate of pay."

Now, take those three facts that have been passed subsequent to this Act. I will later give Your Honor the authorities on that. I want to discuss them right now a minute or to and I will show Your Honor that another rule of construction is that if there is any doubt of the meaning of an act that the subsequent passage of an act using similar language and the subsequent interpretation by its administrative officers furnished light upon the legislative intent.

Well, now, to where does that lead us?

I did say that this case is an important case. It is a most important one because, if these people are right now, and Your Honor so holds, and the ruling is sustained, that the Congress intended that traveling time should be a part of the working time, then, may it please the Court, by the same token every employer who is selling material to the government is violating this law every day.

And yet, although the Walsh-Healy Act was passed prior to this Act in 1936 and the other two I mentioned were passed after this Act, there has not been an effort on the part of a single, solitary person or agency chargeable with the administration of these Acts to claim, as is claimed by these defendants, that traveling time is per se "work".

There have been acted eight hour laws applying to employees of the United States in 1892, 1912, 1917 and so on. They all read very much the same. For illustration:

"The service and employment of all laborers and mechanics is limited and restricted to eight hours in any one calendar day and it shall be unlawful to *work* more than eight hours in any calendar day."

"The wages of persons employed upon such contracts shall be computed on a basic day rate of eight hours *work* with overtime rates to be paid for at not less than

time and one-half for all hours worked in excess of eight hours."

Now, Your Honor will see that in those laws the Congress used the same words, in effect,—"eight hours work", "permitted to work", "hours worked", "unlawful to work more than eight hours," and the Congress had to know, and when you put yourself in the shoes of Congress you have got to know, that every one of those laws had at that time been construed by the administrative officers who were in charge of their enforcement as meaning the time at productive work. Some of them use the words "effective labor."

"Oh," my friends say, "but that was traveling under God's sunlight; it wasn't underground." Well, the Congress didn't draw any distinction. Can Your Honor legislate in that regard? So, we say that on the national historical background of this law you can't get away from it.

Now, I say, in summing up this part of the discussion, that the undisputed evidence in this case shows that on October 24, 1938, when this law was passed, the parent of the Act before Your Honor for consideration had actually defined the word "work" to mean time spent in productive work and that the codes promulgated under the parent law had actually defined the word "work" as we define it here.

I say, in the second place, that the previous laws that had been passed,—Walsh-Healy and the other laws I have mentioned,—had by their method of administration, been given a similar construction.

And, in the third place, since 1892, the opinions of the United States Attorneys General, and of administrative departments had, previous to the enactment of this Act, construed statutes having similar language as meaning "work at the usual working place."

And I challenge my friends on the other side to present a single interpretation by any Court, government official or administrator indicating anything to the contrary: We have looked it up, and I know that with their exceptional means of getting inderdepartmental knowledge which is confidential, if it existed it would have been presented.

I, therefore, make this assertion: That there can not be found an administrative interpretation or enforcement of any of these laws in keeping with what they are asserting here in this case today. But, on the contrary, every opinion and interpretation and judicial decision on the matter prior to the enactment of this law is in line with the assertion as plaintiffs make it.

Now, another cardinal rule of statutory construction is that Courts will assume that the Congress, in enacting laws, considered the state background of statutes of similar import.

Now, let us go to these state statutes and let your Honor get in the shoes of Congress and see what Congress knew about those statutes at that time.

Well, Senator Thomas, of Utah, was one of the sponsors of this legislation, and he and Senator Black were, I think, its chief proponents before the Committee and through the Senate. Senator Thomas was from the State of Utah. I think at that time the Senator from Arizona was our dearly beloved departed friend who had such a wonderful vocabulary, Senator—

Mr. All:
Ashurst.

Mr. Burr:
—Ashurst. Now, then, those gentlemen were sponsorng this law and assisting in drafting it and voting for it. They knew what the state policies of Utah and Arizona were.

I want to read Your Honor the Utah statute. It was a very simple matter to have included traveling time in un-

derground mines as work if they had wanted to do so. They had so handled it in Utah. It was not a question of defining hundreds of thousands of kinds of work. If they had wished, in underground mines, to eradicate the evils that, since the opening of this case, have interfered with the rest of defendants' counsel, they knew how to accomplish it. Senator Thomas knew how to do it, because he knew the Utah statute was the adopted policy of that state provided,—I am quoting—

"The period of employment in underground mines shall not be more than eight hours per day,"—

It didn't stop there like the statutes of other states, as I will show Your Honor they stopped, but it added, "Computed,"—and how simple is this if the Congress had wanted to say it,—

"—computed from the time the men go underground until they return to the surface.".

Now, Senator Thomas knew that. He knew that if he wanted to have that act read like these genttlemen say it ought to read he could find the words to make it so read if he could have gotten the other Senators to agree with him. Senator Ashurst may have gone along with him because his state is the only other state in the Union that has adopted such a policy. The Arizona statute reads this way:

"Inclusive of the time employed in descending to and ascending from the place of work."

Now, there is only one other state in the Union that has adopted a legislative policy partially in keeping with the one advocated by defendants, and that is the State of Nevada. But Nevada didn't want to go that far. They

wanted to legislate for a division of the traveling time. So here is the law of that state:

"The period of employment shall not exceed eight hours within any twenty-four hours, and the said eight hours shall include the time employed, occupied, or consumed from the time of reaching the point of employment or working place in any underground mine, and in returning to the surface from said point or place of work, and that it is the intent and purpose of this Act that the period of time between arriving at the point or place of work in any underground working and returning to the surface from such point of work, shall not exceed eight hours within any twenty-four hours."

In other words, Nevada, by law, did the same thing that the defendant Unions requested of plaintiffs in the three times they presented their proposals in 1933, 1934 and 1935, —they divided it.

Now, that is what those three states (and only those) had provided prior to the enactment of the Act.

Now, I say if the Senators from those states had wanted to include traveling time as work time in underground mines they would have said so.

Now, what, at the time of the enactment of the Act, had the other states provided with reference to this question?

The first state that enacted any law on the subject was California,—Section 750 of the California Labor Code. That statute provided, (just like our federal statutes that have been construed, as I pointed out to Your Honor, by administrative officers) that "the period of employment shall not exceed eight hours, excluding the intermission for meals." That is much stronger than the words in Section 7 of the Act here under consideration. Under the California statute an argument could be made that it referred to employment and not to work. Well, it was not long

after that act was passed until it was construed by the Supreme Court of California in the case of *Ex Parte Martin*, 157 California 39, 106 Pacific 238, and it came up in this way:

Underground employees, as I recall it, represented by a union,—I am not certain of that, but underground employees, I know,—reached the conclusion that, under that statute which said that the period of employment should not exceed eight hours, inasmuch as they were working eight hours at the face, and it took them an hour or an hour and a half to get out of the mine, that, adding that time to it, they were exceeding eight hours, and here is what the Supreme Court of California said:

"We think the petitioner's contention that no violation of the Act is here charged is correct and should be sustained. The Act provides that the period of employment of persons employed or engaged in work in underground mines, etc., shall not exceed eight hours in any twenty-four hours. The purpose of the Act is, as has been pointed out in the opinion in Cr. No. 1539, the protection of the health of the men working in underground mines. The injury to health which seems to have been apprehended is that which would be encountered by one subjected to the strain of performing manual labor under detrimental conditions."

The same sort of conditions, I guess, they have there we have here.

"Giving to the words of the Act their ordinary and reasonable meaning, the limitation of time is to be construed as referring to the time when men are actually engaged in work, not when they are going to or from their work. There is nothing in the language of the Act which would justify a more restricted interpretation."

Now, without taking the time to read them,—I have got them here if Your Honor would like to see them later,—

The Court:
They are on your memorandum?

Mr. Burr:
No, sir. They are state laws, and Your Honor takes judicial knowledge of them.

The Court:
All right.

Mr. Burr:
There is not another state in the Union—most of them out in the West followed the California Act almost verbatim and, of course, under another indisputable rule of statutory construction, when a state passes an act somewhat similar to the act of another state which has been construed by the Supreme Court of that state, it enacts the construction along with the enactment of the act.

We have an illustration here in Alabama. Take the Workmen's Compensation act,—

The Court:
The Minnesota law.

Mr. Burr:
The Minnesota law.

Every state that has mines in it,—I have looked them all up,—with the exception of Utah, Arizona and Nevada, the policy, the lesgislative policy of all the other states that have mines in them, underground coal, iron ore, any other kind, is the same as California, the N. R. A., the codes adopted under N. R. A., and every federal act that has been construed and administered since the country was

a government, and even down to the present time under the War Defense Acts to which I have called Your Honor's attention.

There is another interesting thing here that brings up another cardinal rule of statutory construction. I am using them all, and I am challenging these gentlemen to show a single rule of construction that supports their contention. Now, this one I am referring to is this: That the legislative policies of a state which, under the decisions, Congress looks at, can not only be established by its enactment of laws, but can be established by its refusal to enact laws.

We have a splendid illustration of that in the State of Montana here, and I am citing, and I have given you here the Montana Acts on the subject. For thirty-five years the labor unions in Montana have been presenting and trying to secure the passage of an act similar to Utah. I will read Your Honor one of these proposed bills.

Mr. Harris:

What exhibit is that you are reading from, Mr. Burr?

The Court:

It is not an exhibit.

Mr. Burr:

It is not an exhibit. It is a certified copy. I am just helping Your Honor's judicial knowledge.

"Be it enacted by the legislative assembly of the State of Montana:

"Section 1: That Section 3071 of the Revised Code of Montana of 1935 be, and the same is hereby amended to read as follows:

"Section 3071: Hours of Labor—Underground Miners: The period of employment of workingmen in all underground mines or workings, including railroad tunnels or

other tunnels, shall be not to exceed eight hours per day, except in cases of emergency when life and property is in imminent danger, provided that the period of eight hours provided for shall be computed from the time the workman enters such mine, working or tunnel until he emerges therefrom."

Now, over a period of thirty-five years and, I think, on five different occasions, the Legislature of Montana has said, "We will have nothing to do with that kind of Utah-Arizona Law."

So, you have all the states in the Union except Utah, Arizona and Nevada following California, and you have the State of Montana that has declined for thirty-five years,—and this State is right out there in the bosom, you might say, of the Smelters Union—to pass a law similar to Utah and Arizona.

Before I take up the next rule of statutory construction to which we can turn to aid us in the construction of the Act here under consideration, I want to call Your Honor's attention to one other thing. I think I have shown the Court,—and I know I have convinced myself long ago,—that the Congress wouldn't have had any difficulty if it had wanted to do what these gentlemen said it did do with reference to underground mines in accomplishing such a purpose by using the Utah language. The Congress, having had all this history before it, and not having done so, Your Honor can't step in and legislate and say it did so.

The statements which I have been hearing so often,—"You can't define work," "That is to be left to promulgation," "Hundreds of thousands of different situations"—

The Court:

Where the word "work" gets its meaning—it all depends—its meaning, may be, is interpreted in the light of the facts.

Mr. Burr:

I agree with Your Honor thoroughly on that.

The Court:

That is my idea about it.

Mr. Burr:

I think that is right. I think, as I stated in the beginning, if any of these employees did any work which carried them over eight hours they are entitled to be paid for it, but if they spent the time in just traveling you couldn't add that to work.

Now, on that same proposition, in the President's message asking for the enactment of this law, he says:

"Allowing for a few *exceptional* trades, and permitting longer hours on the payment of time and a half for overtime, it should not be difficult to define a general maximum *working* week."

There is an express recognition of the fact that Congress could, in exceptional trades, if it wanted to, do what these gentlemen said it did do. It could have, and if it so intended, would have made the exception plain.

So, we say that Congress just didn't say so; it knew how to say so and it didn't say so.

Now, the next cardinal principle of construction that I want to call to Your Honor's attention is this:

The Court will assume that Congress took into consideration the traditional custom that existed in all the underground mines in the United States.

When Your Honor studies the opinion of the Administrator you will see that is what he attempts to base his opinion upon, and he is eminently correct that far. It is ridiculous, of course, to contend that this Act hasn't a universal application, or that it has a particular local application to this mine or that mine. But where the Administrator is wrong, as this undisputed evidence shows, is in his conclusions of fact that he sets forth in his opinion as

backed up by Mr. Stein's report. He says that he recognizes the existence over the United States of an established custom in underground metal mines; he says this custom should be followed, and that is what we say, and that is what the authorities hold, but the Administrator states, as the factual basis for his conclusion, that the portal to portal plan was the custom of the nation, and you will find in his opinion that he says that the Alabama mines were the only metal mines of any size in the United States that operated on the "face to face" basis. Now, his principal is right, but his facts are totally wrong. No wonder his counsel makes no effort to defend them here before this Court.

This evidence here shows beyond any doubt that, taking the United States as a whole, there wasn't when the Congress enacted the Act, a mine in the United States, open or underground, coal, metal or non-ferrous that was operated on the "portal to portal" plan. It is an invention of the Administrator. He justifies his opinion on his claim that there was such a plan in national effect. He was right in saying that Congress would follow custom and practice, but he was wrong in his assumption that the custom and practice was "portal to portal", and every bit of the evidence in this case demonstrates that fact. Take the mines of Minnesota. There isn't a witness whose deposition was taken by the government, and when the defendant-intervener did not see fit to offer his own depositions, we were glad to vouch for them, and offer them,—every one of them on cross examination,—and some of them went back twenty-five or thirty years,—testified that in those states, Minnesota, Wisconsin and Michigan,—they covered those three states that produced, as shown by the figures here in evidence, as I recall it, over 90 percent. of the iron ore production of the United States,—that for all that period of time they had never been paid for any part of their travel time and their work time had been computed and paid for on a face-to-face basis.

Take Senator Lafollette,—why he is as great a humanitarian as defendants' counsel is. Can anybody doubt that Senator Lafollette, knowing that in Wisconsin and Minnesota and Michigan, the very lifeblood of which states is the iron ore industry, that the Union, for many years had been trying to get, and hadn't been able to get, the traveling time paid, would have supported this law if he wanted to carry the state policy of Utah and Arizona into national effect without attempting to have the Act so declare in clear, easily understood, "man in the mine" language?

Go out to Colorado, the only other iron ore producing state as to which any evidence has been introduced here, and we find that the contract and agreement with the employees provide that "eight hours shall constitute a day's work, and this means eight hours work at the usual working place for all classes of labor, exclusive of the noon hour and the time required to go to and from the place of employment."

So I say, if the Court please, Congress, at the time of the enactment of this Act, knew that it was the traditional and universal custom in all the mines of the United States to compute and pay wages on the "face to face" basis.

Now, let's consider Alabama. Why, I can't see how anybody can have the temerity to question that the evidence here, so far as Alabama is concerned, shows without contradiction the existence for a period of more than fifty years of the "face-to-face" plan. The evidence in this case shows as far back as fifty-six years. I think is the oldest one,—Mr. Jim Smith,—and coming down to my young friend Ed Ball over here, who admits to thirty-nine years, wasn't it Ed?—and on down to Mr. Patterson and other defendants' witnesses, man after man has testified that until May 1, 1941, it had been without any exception the custom to compute and pay wages on the working place-to-working place basis.

In passing I want to give defendants' counsel a little solace as he tries to sleep these hot nights, worrying about his poor clients,—as I looked at them upon the stand,—I have never seen a case fought like this one has been where, with one or two exceptions I don't care to comment upon, there was such an evident intention and purpose on the part of the witnesses on both sides to tell the exact truth, but it is strange that if these terrible conditions exist these men we saw here on the stand should stay there as long as they have. It is rather remarkable how they have continued to work so many years for the same company—not only in the same line of work, but for the same company. As I recall, the witnesses the defendants put on the stand had worked for the same employer for many years,—thirty, twenty, fifteen, and some all their working lives. The Court must have observed their remarkable physical condition. If, as defendants' counsel contend, these men had to undergo such intolerable conditions, we have had demonstrated here a most unusual instance of bearing hardships and hazards.

May it please the Court, the evidence is undisputed that for fifty-six years in the ore mines of Alabama,—your Honor didn't think we should be permitted to into the coal mines,—but in the ore mines for fifty-six years the universal practice without exception has been to treat the work on the basis of productive work at the face.

So, when the Congress enacted the law it knew that the traditional custom all over the country and in Alabama had been, since the memory of man ran, on the "working place-to-working place" basis. Just like I say that Senator LaFollette would have represented his section of the country up yonder, I know our Senators, chargeable with knowledge of the existing workweek as it existed in Alabama by custom and contract,—I know those two Senators would have done one of two things,—either they never would have voted for a bill that would have changed all that, of if they had voted for it they would have had the

manhood and the courage to put in that bill exactly what they were voting for.

Now, that brings me briefly to the question of contracts. I wish I had time to analyze these contracts, but I have only a short time longer. I just can't see the applicability of any authorities read by defendants' counsel. They throw no light on the intent of Congress; they restate the questions of estoppel and fraud. We are not arguing there is any matter of estoppel involved in the question we are considering now,—not at all,—so what have the authorities cited on fraud and estoppel between parties got to do with the question of Congressional intent?

The Court :
Waiver?

Mr. Burr:
We are not arguing waiver at this time.

What we are arguing is the undisputed fact that the Supreme Court has said when the Congress passed that Act they were legislating for a workweek and were charged with knowledge of what that workweek was, and you can't get away from those facts.

I am not interested here in this case as to who told the truth as to whether or not the Union at one time requested a six hour day with traveling time included. If such a request were made it was in the good old year 1933 or 1934. What difference does it make whether they asked for six hours then or not? That was before this law was ever thought of. The face-to-face custom was then in existence. The significant thing is if they asked for it in 1933 this shows they knew they did not have it, and they never insisted on it or argued for it, and only included the request along with a large number of other requests. When you read these exhibits you will find that the Union made these requests for payment of half traveling time only in

1933, 1934 and 1935, and that in 1936 Mr. Horn, the District President of the Union, had written a letter to all the iron ore mining companies, submitting a contract in which he used, defining the day's work, the exact language of the bituminous coal contract and the bituminous coal code. And don't forget back yonder in 1933 when they made the request for the half travel time Mr. Gregg's reply was, "We are following the bituminous coal code as closely as we can." So Mr. Horn presented to all these companies a contract in which he defined the work day as being on the face-to-face basis, just like it was in the bituminous coal code, exactly word for word.

What happened after that? I commenced to weep again with sympathy for the labor unions as I listed to defendants' counsel describe what happened at the Chicago conference when the contract of 138 was formulated and signed. Poor, deluded mortals! Capital having its foot on their necks! And all of them with such little education! And who does the undisputed evidence show was representing them at the conference? Why, Mr. Pressman, the general counsel of the C. I. O., which has more paying members right now than the United States has soldiers in its Army, and who is a graduate of "dear old Harvard". There was Jim Vance imposing on Lee Pressman and "gypping" these good friends of mine who have been paraded here as having gone through the fourth, sixth or seventh grade, and who are making more money now, I will bet you, than our young economist over there with the Wage and Hour Division whose total experience consists of education at Reid College and the University of Chicago, a research director for the National Labor Relations Board and a Senior Economist in Charge of Litigated Cases of the Wage and Hour Division of the Labor Department. There was that Union, represented by Pressman and Reid Robinson, its President, negotiating and signing a contract providing that the computation of the day's work should be on

the face-to-face basis, using the exact language of the bituminous coal code, and the bituminous coal contracts.

The next thing I want to call to Your Honor's attention is another cardinal rule of statutory construction, and I think this is about the last one.

"The contemporaneous construction of a statute of doubtful meaning by those charged with its enforcement is highly persuasive of the correctness of that interpretation."

Green v. Jones (Kentucky), 186 S. W. 675;

National Lead Co., v. U. S., 252 U. S. 140;

U. S. v. Ala. Great Sou. R. R. Co., (U. S. Supreme Ct.), 35 Law. Ed. p. 1136;

State v. Tuscaloosa Building & Loan Association, 161 So. 530.

So far as this record shows, and it may be assumed we have the entire record here,—so far as this record shows, from the time this Act was enacted on October 24, 1938, until the latter part of March, 1941, Jim Smith, United States District Attorney for this District,—Your Honor taking judicial knowledge of your own records,—never claimed that plaintiffs were daily violating this statute, and no other judicial or administrative officer in the United States has asserted such a violation. The Administrator didn't claim it. On the contrary, he waits and "busts" loose two and a half years afterwards with this kind of opinion, which is not supported by the facts, and then Crampton and Ralph and J. Q. rush in and holler, "Money on the barrel head!"

Mr. Smith:

We didn't bring this suit.

Mr. Burr:

You brought yours mighty quick.

During that two and a half years what were they doing? We come to a cardinal rule of fairness and justice. They were renewing their contracts just like the practice had been for fifty-six years. Not only that, but they accepted wage increases which this undisputed evidence shows were made and computed and based on the good faith and credit, the reliability and sanctity of their written contracts time after time. If there was any ambiguity about the meaning of Section 7 the parties to these contracts construed it time and time again not to include traveling time as work time.—*Birmingham Water Works Co. v. Hernandez*, 196 Ala. 438. And what else did they do? The failure to attempt the enforcement of this law on a portal-to-portal basis prevented these plaintiffs,—and prevented every other company of the United States, because don't believe for an instance that Your Honor's decision here, and its ultimate affirmance or rejection by the other Courts will not affect other industried,—we are the tail to the dog in the iron and coal industry in this country,—from protecting themselves against the unjust claims of the defendant unions. I am not arguing here that if these defendants, all of whom have stepped up four times a month or twice a month for ten or fifteen years and have taken their wages,—some of them $250 a month net, and put their names down in writing, acknowledging full payment on the "face-to-face" basis,— knowing what they were doing, knowing that they were not being paid for traveling time, acknowledging that their construction and the construction of the parties to this contract was just the same as ours, are estopped from suing to recover on the basis of the Administrator's opinion, because that is not the issue we are trying. They signed contracts up to 1941 on this same basis. What would have happened if they had come in then and raised the question? Plaintiffs would have had the opportunity of doing what the Circuit Court

of Appeals for this Circuit has just approved in the case of Fleming against Belo Corporation, and in this way protected themselves from these exhorbitant and unjust demands.

The Court:
What is the case?

Mr. Burr:
I will just hand you the opinion. It is an advance sheet. It is Fleming against Belo Corporation.

The Court:
We have that.

Mr. Burr:
Have you?

The Court:
We get them. What state is that from?

Mr. Burr:
Fifth Circuit Court of Appeals,—came up from Texas. I will leave this with Your Honor in case—

The Court:
We have got it.

Mr. Burr:
It is our own Circuit Court of Appeals.

The Court:
Do you remember the Judge who decided it?

Mr. Burr:
Judge Hutchenson wrote the opinion.

The Court:
I mean the District Judge?

Mr. Burr:
Judge Atwell was the District Judge. Judge Hutchenson wrote the opinion and the opinion was unanimous. I would just like to read—the effect of the opinion is—

The Court:
When was it handed down?

Mr. Burr:
June 27, 1941.

The Court:
All right.

Mr. Burr:
The effect of the decision is this:

The Court:
I will read it.

Mr. Burr:
And I particularly want Your Honor to read—well, read the whole opinion.

Now, if Your Honor please, I want very briefly to discuss one or two phases of the evidence. I have tried to make myself clear on this proposition, and that is what I have been discussing so far, that the sole question we have for determination now is whether or not time is to be computed from the time a man goes into the mine until he comes out. That is the question. That is what the Administrator says. That is what these gentlemen say. We say it isn't to be computed in that way. Now, even if we were willing to argue at this time,—it is not an issue at this time, but if it were an issue at this time, there isn't

any evidence here to show any work of such a nature as to make traveling time work in these particular mines.

Now, I have gone over the list of witnesses here. As Your Honor recalls, there are two sets of underground employees—

The Court:

Production and service.

Mr. Burr:

Yes, production and service, Your Honor. I don't remember the proportions, but I think it was 60 per cent. service and 40 per cent. production. Take in the mines of the Tennessee Company; out of 2,630 employees 60 per cent. were service employees. All right, sir. Now, Mr. Ball's evidence is undisputed in this case, and it is even undisputed by the few service employees that were on the stand, that, aside from "checking in", which I will discuss in a few minutes,—the evidence is undisputed by these service employees when they go down in the mine on the skip they get off at the man unloading station and they report to their places of work practically right there. There is no contention that they carry tools; there is no contention that they have anything to do with jackhammer steel or that sort of thing; there is no contention they do a thing in the world except to deposit their checks as they go in and take them up as they come out.

Now, look at the witnesses who have testified. There have been of production employees of the Tennessee Company eight head miners, of the Republic Company two head miners, of the Sloss Company three head miners; drag operators, Tennessee Company one, Republic none, Sloss one; section helpers, Tennessee Company one, Republic none, Sloss one,—a total of sixteen of the production crews, and there hasn't been a one of those that hasn't varied in his testimony,—scarcely a one.

Going to the service crews, out of a classification of thirty-three service jobs, there have testified of the Tennessee Company employees one motor inspector, one dispatcher, one service foreman, one hoisting engineer, one skip tender, one timber man; of the Republic Company employees, one hoisting engineer; of the employees of the Sloss Company, one hoisting engineer, one lamp man, one electrician, one drag engineer,—a total of twelve.

So, we say it would be absolutely impossible for the Court on that kind of testimony, and especially when you analyze the testimony,—why, you take the testimony of these men here that testified last at Muscoda,—John White and Frank Palmer and Fred Trammell and W. R. Headrick, and you can't find, even in their testimony, any evidence that will justify Your Honor in holding that in riding into that mine they were engaged in any work.

Now, what is the thing they say justifies them in asking this Court to hold that the Congress intended to draw a line at the portal and everyone who went in there was at work until he came out? They say they "check in". Is there any doubt about how they check in? Is there any doubt about the fact that the only thing they do is to deposit their checks as they enter and take them up as they leave?

It is undisputed that not a one of these employees is under supervision so far as the work is concerned until they get to their places of work; that the members of the production crews do not go down with the head miner; some of them meet their head miner at the working place, some meet him at the tool box and walk up with him. In depositing their checks they are doing that to get ready for transportation to their places of work. They are not under any supervision except as to safety until they get to their places of work. Mr. Ball's testimony is undisputed, and is corroborated by the testimony of all these witnesses that the service men, as one witness expressed it, "begins his work when he unlocks his tool box at the motor pit."

As Mr. Ball expressed it, they begin their work when they report to their boss at the place of work. Is there any magic in depositing a check at the top of the mine? Why, the same thing is done in every plant in this country. Your Honor knows they not only check in at the gate of the plant, but they punch the clock, and the work doesn't begin and the time doesn't start until they get to their places of work. So I don't care whether James Knox, or whoever it was who said, "Here am I," or "I am here,"—when he said that he was not, under the language of this Act, at work. He was not, under the interpretation that everybody gives it except the Administrator and these gentlemen over here, engaged in "work."

I submit, in closing, in answering the question as to the meaning of Section 7, in putting yourself in the shoes of Congress, if this Court says that the Congress intended to state that "workweek" included traveling time, it will bastardize the Act against the admitted parentage of N. R. A. and its codes, and will hold that Congress intended, without saying so, to overrule all judicial and administrative interpretations of this and similar acts; to repudiate the existing, universal custom that had endured for generations; to disown the construction by the parties of their solemn, written contracts, and that in thus overruling all precedent, it demonstrated its inability to understand and use the English language.

Now, I would like—my time is up, Your Honor. I would like to have the privilege of examining and commencing on a few decisions cited by defendants' counsel which we have not had the opportunity to see.

The Court:

Will you let me have them right away?

Mr. Burr:

Yes, sir, in the morning.

Mr. Harris:
We will also have some authorities too.

The Court:
Court is adjourned.

(Whereupon, at 5:20 P. M., August 1, 1941, the hearing in the above entitled matter was closed, and the case was submitted to and taken under advisement by the Court.)

EXHIBITS INTRODUCED IN EVIDENCE.

T. C. I. EXHIBIT X.

Case # 5232, etc.

B-1. Tennessee Coal Iron and Railroad Company. 1351.

Ore Mines and Quarries.

Daily Time Sheet.

Mine No. .....

Mining—Underground.

Shift.....

Section No. ..... Date....., 19....

Badge Number	Name	Occupation	Hours Worked	Remarks
.....	.....	Head Miner	.....	.....
.....	.....	Drill Runner	.....	.....
.....	.....	Drill Runner	.....	.....
.....	.....	Drill Runner	.....	.....
.....	.....	Drag Operator	.....	.....
.....	.....	Section Helper	.....	.....
.....	.....	Section Helper	.....	.....
.....	.....	Section Helper	.....	.....
.....	.....	Section Helper	.....	.....

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.... Section Helper ....
....
....
....
..... Tram Loaded .....
..... Explosives Used:
..... Powder (Sticks) .....
..... Fuse (Feet) .....
..... Caps (Dynamite) .....
..... Paper (Sheets) .....

Approved ..... Signed .....

Mine Foreman. Head Miner.

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T. C. I. EXHIBIT X-1.

B-3. Tennessee Coal, Iron and Railroad Company. 1353.

Ore Mines and Quarries.

Sheet No. 2. Daily Time Sheet.

Mechanical, Electrical, and General Underground.

Shift.....

Mine No. ..... Date....., 19....

Badge Number	Name	Occupation	Hours Worked	Remarks
.....	.....	Haulage Engineer	.....	.....
.....	.....	Sinking Hoist Engineer		
.....	.....	Pocketman	.....	.....
.....	.....	Dumpman	.....	.....
.....	.....	Skip Tender	.....	.....
.....	.....	Skip Tender	.....	.....
.....	.....	Mine Laborer	.....	.....
.....	.....	Mine Helper	.....	.....
.....	.....	Mine Helper	.....	.....
.....	.....	Mat'l & Man Hoist Engr.....	.....	.....
.....	.....	U. G. Hoist Engineer	.....	.....

3546

.....	.....	Pumper (Air)	.....	.....
.....	.....	Pumper (Air)	.....	.....
.....	.....	Electric Pumper	.....	.....
.....	.....	Sub-Station Tender	.....	.....
.....	.....	U. G. Mule Shoer	.....	.....
.....	.....	U. G. Stable Cleaner	.....	.....
.....	.....	U. G. Stable Cleaner	.....	.....
.....	.....	Boss Driver	.....	.....
.....	.....	Mine Mechanic	.....	.....
.....	.....	Drag Repairman	.....	.....
.....	.....	Drag Repairman	.....	.....
.....	.....	Pipeman & Pumper	.....	.....
.....	.....	Drag Repairman Helper	.....	.....
.....	.....	Drag Repairman Helper	.....	.....
.....	.....	Car Repairman	.....	.....
.....	.....	Car Repairman Helper	.....	.....
.....	.....	Motor Inspector	.....	.....
.....	.....	Motor Inspector	.....	.....
.....	.....	Motor Inspector Helper	.....	.....
.....	.....	Motor Inspector Helper	.....	.....

Approved ..... Signed .....

Mine Foreman. Asst. Mine Foreman.

T. C. I. EXHIBIT X-2.

B-2.

Tennessee Coal, Iron and Railroad Company.

Red Mountain Works.

Daily Time Sheet.

Timbering, Tracks, Chutes, Material and Slate Dumps—Underground.

Shift.....

Mine No. ..... Date....., 193....

Badge Number	Name	Occupation	Hours Worked	Over	Under	Remarks
.....	.....	Section Foreman....	.....	.....	.....	.....
.....	.....	Timberman	.....	.....	.....	.....
.....	.....	Trackman	.....	.....	.....	.....
.....	.....	U. G. Carpenter.....	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....

3548

.....	.....	Helper	.....	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....	.....
.....	.....	Helper	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....

Approved ..... Signed.....

Mine Foreman. Foreman.

T. C. I. EXHIBIT X-3.

B-3-A. Tennessee Coal, Iron and Railroad Company. 1353.

Sheet No. 1

Ore Mines and Quarries.

Daily Time Sheet.

Mechanical, Electrical, and General Underground.

Shift .....

Mine No. .... Date....., 193....

Badge Number	Name	Occupation	Hours Worked	Remarks
.....	.....	Ore Inspector	.....	.....
.....	.....	Dispatcher	.....	.....

3546

Badge Number	Name	Occupation	Hours Worked	Remarks
.....	.....	Motorman	.....	.....
.....	.....	Motorman	.....	.....
.....	.....	Motorman	.....	.....
.....	.....	Trip Rider	.....	.....
.....	.....	Trip Rider	.....	.....
.....	.....	Trip Rider	.....	.....
.....	.....	Trip Rider	.....	.....
.....	.....	Pipeman	.....	.....
.....	.....	Pipeman	.....	.....
.....	.....	Section Helper-Service	.....	.....
.....	.....	Section Helper-Service	.....	.....
.....	.....	Section Helper-Service	.....	.....
.....	.....	Section Helper-Service	.....	.....
.....	.....	Section Helper-Service	.....	.....
.....	.....	Head Miner-Service	.....	.....
.....	.....	Drill Runner-Service	.....	.....
.....	.....	Drill Runner-Service	.....	.....
.....	.....	Drill Runner-Service	.....	.....
.....	.....	Gasman	.....	.....
.....	.....	Gasman Helper	.....	.....
.....	.....	Powderman	.....	.....

.....	.....	Haulage Engineer	.....	.....	.....
.....	.....	Haulage Engineer	.....	.....	.....
.....	.....	Haulage Engineer	.....	.....	.....
.....	.....	Haulage Engineer	.....	.....	.....
.....	.....	Haulage Engineer	.....	.....	.....
.....	.....	Haulage Engineer	.....	.....	.....
....	.....	Haulage Engineer	.....	.....	.....

Approved .....
Mine Foreman.

Signed.....
Asst. Mine Foreman.

T. X. I. EXHIBIT X-4.

117 Rev. 1-39.

Tennessee Coal, Iron and Railroad Company.

Authorization for Overtime.

..... Works.

Date
Overtime Worked .....19....

In.....Department For Turn Ending .....

			Hours Worked in Excess of Standard				
			Daily		Weekly		
No. Badge	Name	Occupation	Special Allowance	In Excess of 8 Hrs. in a 24 hr. Period	In Excess of 5 Turns or 40 hrs. in a calendar wk. or in excess of 5 trns. without 24 Hrs. Continuous. rest	Rate Per Hour	Earning
....	.....	.....	.....	.....	.....	.....	.....
....	.....	.....	.....	.....	.....	.....	.....
....	.....	.....	.....	.....	.....	.....	.....
....	.....	.....	.....	.....	.....	.....	.....
....	.....	.....	.....	.....	.....	.....	.....
....	.....	.....	.....	.....	.....	.....	.....

....	.....	.....	.....	.....	.....	.....
....	.....	.....	.....	.....	.....	.....
....	.....	.....	.....	.....	.....	.....
....	.....	.....	.....	.....	.....	.....
....	.....	.....	.....	.....	.....	.....
	Total		.....	.....	.....	.....

Reasons for Overtime—State Briefly.

.....

.....

.....

Approved: ..... **Dept. Supt.**

Approved: .....**Genl. Supt.** .....

Foreman.

(This form to be used for reporting overtime only.)

B-6.

T. C. I. EXHIBIT X-5.

Tennessee Coal, Iron and Railroad Company.

Red Mountain Works.

Daily Report of Railroad Cars, Trams Loaded and Men Leaving Mine Before Shift is Over.

Division ..... Mine No. ..... Shift..... Date 19

Railroad Car Number (Loaded).

1.....	7.....	13.....	19.....	25.....	31.....	37.....
2.....	8.....	14.....	20.....	26.....	32.....	38.....
3.....	9.....	15.....	21.....	27.....	33.....	39.....
4.....	10.....	16.....	22.....	28.....	34.....	40.....
5.....	11.....	17.....	23.....	29.....	35.....	41.....
6.....	12.....	18.....	24.....	30.....	36.....	42.....

Trams Loaded

Heading No.	Mech.	Hand
.....	.....	.....
.....	.....	.....

No. of R. R. cars standing loaded beginning of shift .....
No. R. R. cars standing empty beginning of shift.. .....
No. of empty R. R. Cars placed during shift..... .....
Total Empty R. R. Cars..... .....
No. of R. R. Cars Shipped..... ....

.....	.....	.....	No. of R. R. Cars standing Loaded..... .....
.....	.....	.....	Total Cars Loaded ....
.....	.....	.....	No. of empty R. R. Cars at End of Shift..... .....
.....	.....	.....	Trams in pocket beginning of shift..... .....
.....	.....	.....	Trams in pocket end of shift..... .....
.....	.....	.....	Remarks: .....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
Total	.....	.....	.....
			.....

Force Foreman and Miner .....
Muckers .....
Other Mine Labor .....
Surface .....

Delays: .....
.....
.....
.....

Men Leaving Mine Before Shift is Over.

Check No.	Name	Working Place	Reason	Time
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

.....

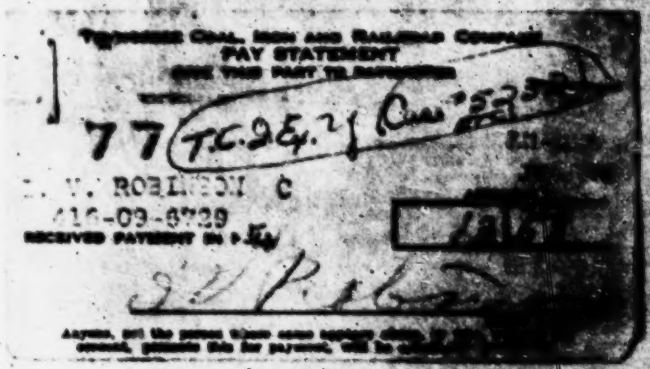
Tallyman.

.....

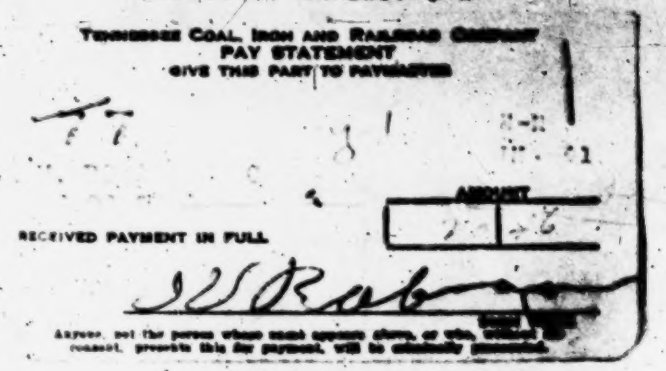
Mine Foreman.

3556

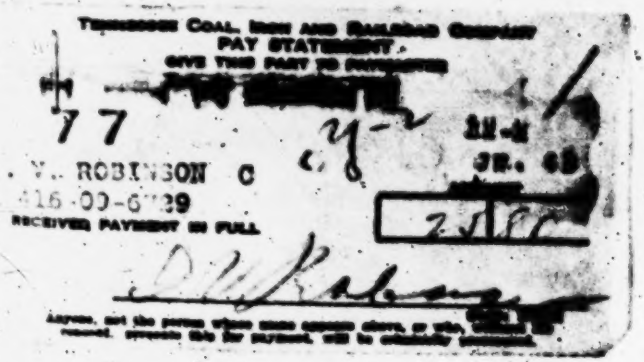
T. C. I. EXHIBIT Y


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER
77 T.C.25.2 Oct '52
I. V. ROBINSON C
416-09-6729
RECEIVED PAYMENT IN FULL

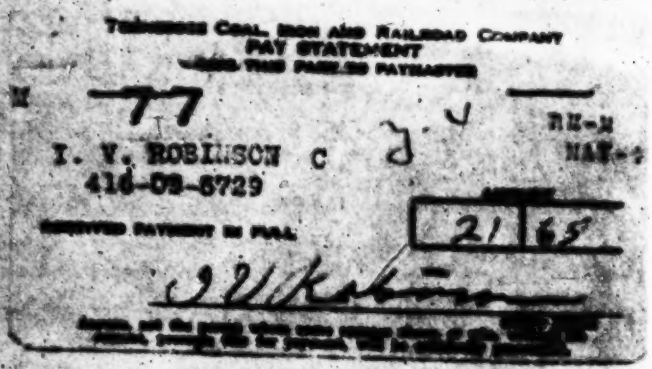
T. C. I. EXHIBIT Y-1


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER
RECEIVED PAYMENT IN FULL

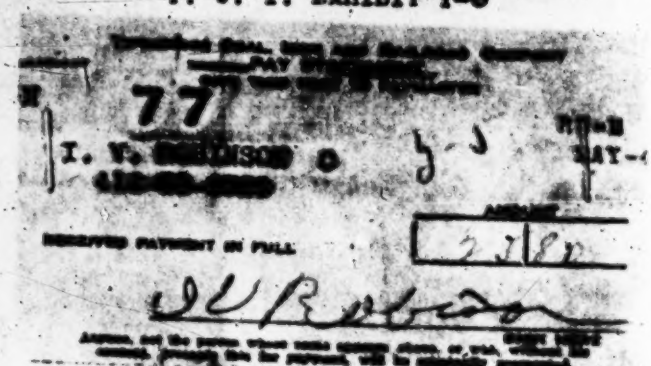
T. C. I. EXHIBIT Y-2


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER
77
RECEIVED PAYMENT IN FULL

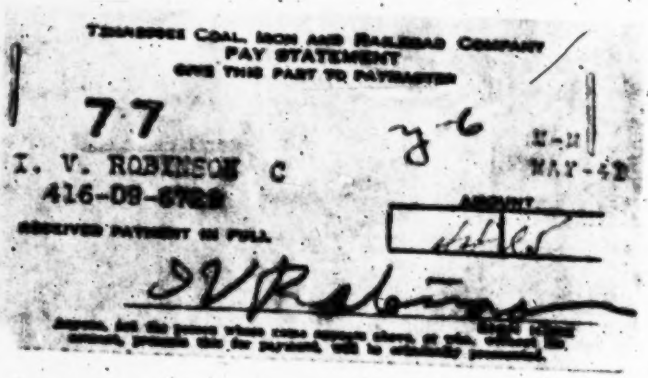
T. C. I. EXHIBIT Y-4


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
77
I. V. ROBINSON C
416-09-6729
RECEIVED PAYMENT IN FULL

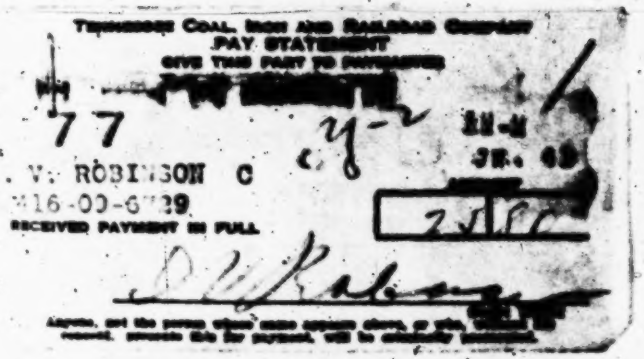
T. C. I. EXHIBIT Y-5


77
RECEIVED PAYMENT IN FULL

T. C. I. EXHIBIT Y-6


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER
77
I. V. ROBINSON C
416-09-6729
RECEIVED PAYMENT IN FULL

T. C. I. EXHIBIT Y-2


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

I. V. ROBINSON C
416-09-6729

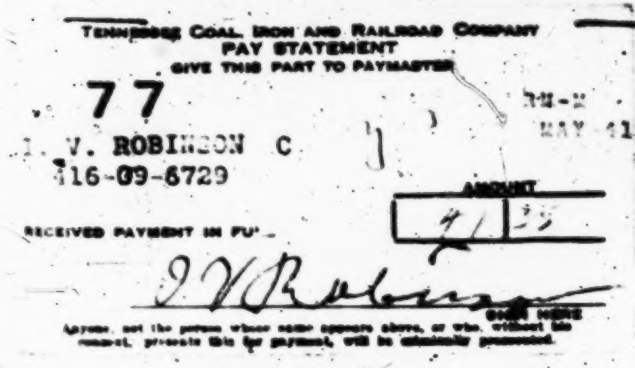
RECEIVED PAYMENT IN FULL

Y-2

RH-M
JR. 41

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT Y-3


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

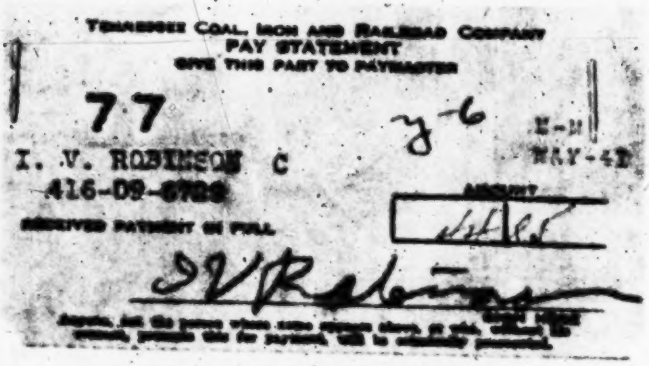
I. V. ROBINSON C
416-09-6729

RECEIVED PAYMENT IN FULL

RH-M
MAY 41

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT Y-6


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

I. V. ROBINSON C
416-09-6729

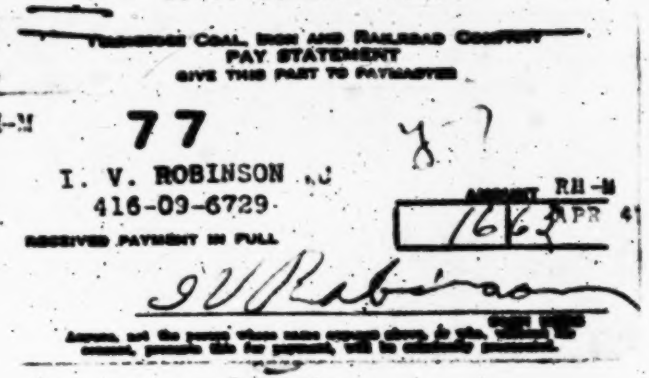
RECEIVED PAYMENT IN FULL

Y-6

RH-M
MAY-41

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT Y-7


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

I. V. ROBINSON C
416-09-6729

RECEIVED PAYMENT IN FULL

Y-7

RH-M
APR 41

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT Y-8

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77
I. V. ROBINSON C
416-09-6729
RECEIVED PAYMENT IN FULL

RE-M
APR. 43

AMOUNT
11 61

I. V. Robinson

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT Y-9

T. C. I. EXHIBIT Y-10

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77
I. V. ROBINSON C
416-09-6729
RECEIVED PAYMENT IN FULL

RE-M
APR. 43

AMOUNT
47 10

I. V. Robinson

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

SIGN HERE

T. C. I. EXHIBIT Y-12

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77
C. I. [redacted] C
[redacted]
RECEIVED PAYMENT IN FULL

RE-M
APR. 43

AMOUNT
33 27

I. V. Robinson

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT Y-13

T. C. I. EXHIBIT Y-14

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77
I. V. ROBINSON C
416-09-6729
RECEIVED PAYMENT IN FULL

RE-M
MAR. 43

AMOUNT
31 20

I. V. Robinson

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

SIGN HERE

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

3-10

RM-M

APR. 41

I. V. ROBINSON C

416-09-6729

AMOUNT

47 10

RECEIVED PAYMENT IN FULL

I. V. Robinson

SIGN HERE

Anyone, not the person whose name appears above, or who, without his power, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT Y-14

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

3-14

RM-M

MAR. 41

I. V. ROBINSON C

416-09-6729

AMOUNT

35 20

RECEIVED PAYMENT IN FULL

I. V. Robinson

SIGN HERE

Anyone, not the person whose name appears above, or who, without his power, presents this for payment will be criminally prosecuted

T. C. I. EXHIBIT Y-15

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

RM-M

MAR. 41

I. V. ROBINSON C

416-09-6729

AMOUNT

22 57

RECEIVED PAYMENT IN FULL

I. V. Robinson

SIGN HERE

Anyone, not the person whose name appears above, or who, without his power, presents this for payment will be criminally prosecuted

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

RM-M

FEB 41

I. V. ROBINSON C

416-09-6729

AMOUNT

34 60

RECEIVED PAYMENT IN FULL

I. V. Robinson

SIGN HERE

Anyone, not the person whose name appears above, or who, without his power, presents this for payment will be criminally prosecuted

T. C. I. EXHIBIT Y-16

TENNESSEE COAL IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

I. V. ROBINSON C
416-09-6729

RN-H
FEB.41

AMOUNT
21 11

RECEIVED PAYMENT IN FULL

I V Robinson

Anyone, not the person whose name appears above, or who, without his proper power of attorney will be criminally prosecuted.

SIGN HERE

T. C. I. EXHIBIT Y-17

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

I. V. ROBINSON C
416-09-6729

RECEIVED PAYMENT IN FULL

I V Robinson

T. C. I. EXHIBIT Y-18

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

I. V. ROBINSON C
416-09-6729

RN-H
FEB.41

AMOUNT
74 08

PAYMENT IN FULL

SIGN HERE

T. C. I. EXHIBIT Y-20

TENNESSEE COAL IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

I. V. ROBINSON C
416-09-6729

AMOUNT
59 78

RECEIVED PAYMENT IN FULL

I V Robinson

Anyone, not the person whose name appears above, or who, without his proper power of attorney will be criminally prosecuted.

SIGN HERE

T. C. I. EXHIBIT Y-21

TENNESSEE COAL IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

I. V. ROBINSON C
416-09-6729

RN-H
JAN 41

AMOUNT
87 75

RECEIVED PAYMENT IN FULL

I V Robinson

Anyone, not the person whose name appears above, or who, without his proper power of attorney will be criminally prosecuted.

SIGN HERE

T. C. I. EXHIBIT Y-22

77

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

I. V. ROBINSON C
416-03-6729

RM-N
FEB.41

AMOUNT
44 | 08

RECEIVED PAYMENT IN FULL

SIGN HERE

Above not the person whose name appears above or who without his

T. C. I. EXHIBIT Y-19

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77

RM-M
JAN 41

V. ROBINSON C
416-03-6729

AMOUNT
22 | 39

RECEIVED PAYMENT IN FULL

SIGN HERE

Above not the person whose name appears above or who without his

T. C. I. EXHIBIT Y-33

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

Jan. 1951

RECEIVED PAYMENT IN FULL

Anyone, not the person whose name appears above, or who, without his request, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT	
HOURS	42	77	36	96
"				
"				
" RATE ADJUSTMENT		.10		
INCENTIVE				
INCENTIVE EXPLOSIVE				
TOTAL EARNINGS			36	96
TOTAL DEDUCTIONS			14	57
BALANCE DUE			22	39

DETAIL OF DEDUCTIONS

SUPPLIES		50
ACCIDENT & HEALTH INSURANCE		
ALA. UNEMPLOYMENT INSURANCE		36
FED. OLD AGE BEN. TAX		36
GARNISHMENTS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		1 20
MEDICAL FEE		
TENNESSEE LAND CO.		
RENT, ELECTRICITY AND WATER		2 15
RENT—DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ACCOUNTS		
MERC. STORE		
MERC. STORE		
MERC. STORE		
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSES, ETC.		
CREDIT UNION		10 00

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR THE PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT Y-34

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

Jan. 1951

77 I. V. ROBINSON C
416-03-6720

Anyone, not the person whose name appears above, or who, without his request, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-03-6720

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT	
HOURS	42	77	32	34
"	42	77	36	96
"				
" RATE ADJUSTMENT		.10		
INCENTIVE			2	60
INCENTIVE EXPLOSIVE			1	20
TOTAL EARNINGS			72	14
TOTAL DEDUCTIONS			15	46
BALANCE DUE			56	68

DETAIL OF DEDUCTIONS

SUPPLIES		
ACCIDENT & HEALTH INSURANCE		
ALA. UNEMPLOYMENT INSURANCE		72
FED. OLD AGE BEN. TAX		72
GARNISHMENTS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		1 20
MEDICAL FEE		
TENNESSEE LAND CO.		
RENT, ELECTRICITY AND WATER		2 15
RENT—DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ACCOUNTS		
MERC. STORE		
MERC. STORE		
MERC. STORE		
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSES, ETC.		
CREDIT UNION		10 00

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR THE PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT Y-25

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

Jan. 1941

77 Y-25

I. V. ROBINSON C
416-09-6729

AMOUNT

RECEIVED PAYMENT IN FULL

Above, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77

I. V. ROBINSON C
416-09-6729

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	40	77	30 80
"			
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			30 80
TOTAL DEDUCTIONS			14 97
BALANCE DUE			15 83

DETAIL OF DEDUCTIONS

SUPPLIES	30
ACCIDENT & HEALTH INSURANCE	2 05
ALA. UNEMPLOYMENT INSURANCE	31
FED. OLD AGE BEN. TAX	31
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	2 00
RENT—DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORES	
MERC. STORES	
MERC. STORES	
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	1 95

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 3RD PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form B 26 D—6M—5-41

T. C. I. EXHIBIT Y-26

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

Jan. 1941

77 Y-26

77 I. V. ROBINSON C
416-09-6729

AMOUNT

RECEIVED PAYMENT IN FULL

Above, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77

I. V. ROBINSON C
416-09-6729

JAN 4 1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	56	77	43 12
"			
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			21 12
INCENTIVE EXPLOSIVE			26 33
TOTAL EARNINGS			90 57
TOTAL DEDUCTIONS			2 82
BALANCE DUE			87 75

DETAIL OF DEDUCTIONS

SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	91
FED. OLD AGE BEN. TAX	91
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	1 00
RENT—DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORES	
MERC. STORES	
MERC. STORES	
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 4TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form B 26 D—6M—5-41

T. C. I. EXHIBIT Y-27

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

AMOUNT

RECEIVED PAYMENT IN FULL

SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

I. V. ROBINSON C
416 02-0129

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 1ST PERIOD AND RECEIPT FOR ALL DEDUCTIONS

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	8	77	6 16
"	56	77	43 12
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			49 28
TOTAL DEDUCTIONS			14 68
BALANCE DUE			34 60

DETAIL OF DEDUCTIONS	
SUPPLIES	35
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	49
FED. OLD AGE BEN. TAX	49
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	120
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	2 15
RENT-DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	10 00

T. C. I. EXHIBIT Y-26

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

AMOUNT

RECEIVED PAYMENT IN FULL

SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

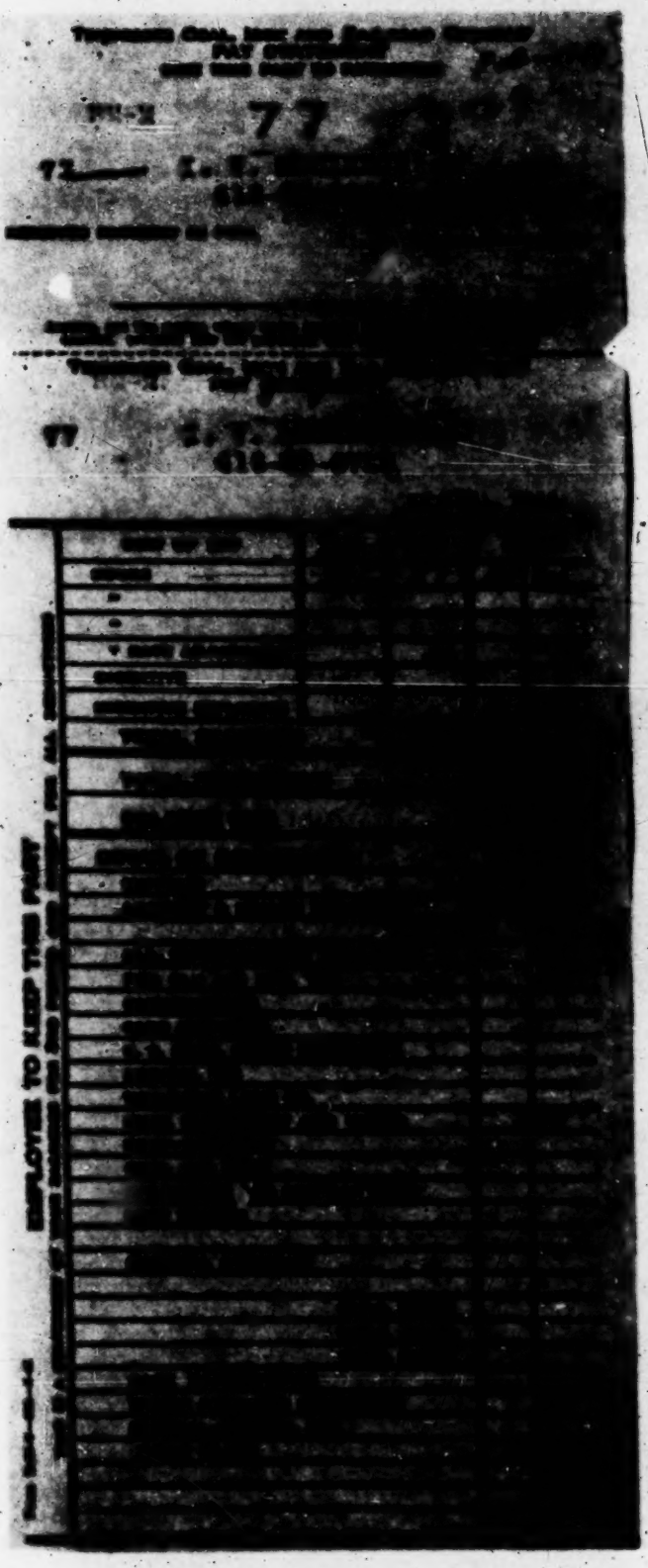
I. V. ROBINSON C
416 02-0129

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 2ND PERIOD AND RECEIPT FOR ALL DEDUCTIONS

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	32	77	24 64
"			
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			4 31
INCENTIVE EXPLOSIVE			6 63
TOTAL EARNINGS			35 58
TOTAL DEDUCTIONS			14 47
BALANCE DUE			21 11

DETAIL OF DEDUCTIONS	
SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	38
FED. OLD AGE BEN. TAX	38
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	1 75
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	2 00
RENT-DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	10 00

T. C. I. EXHIBIT Y-29



T. C. I. EXHIBIT Y-30

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

9-2-1951

77 Y-30

77 — I. V. RODINSON C —
416-03-3729

AMOUNT

RECEIVED PAYMENT IN FULL

Agents, and the person whose name appears above, or who writes his name, personally this for payment, will be originally prepared.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. RODINSON C
416-03-3729

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	4	77	37
"	1	77	77
"	32	77	24 64
" RATE ADJUSTMENT		.10	
INCENTIVE			6 77
INCENTIVE EXPLOSIVE			13 41
TOTAL EARNINGS			46 00
TOTAL DEDUCTIONS			1 92
BALANCE DUE			44 08

DETAIL OF DEDUCTIONS

SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	46
FED. OLD AGE BEN. TAX	46
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAWS CO.	
RENT, ELECTRICITY AND WATER	1 00
RENT—REFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MISC. STORE	
MISC. STORE	
MISC. STORE	
BADGE INVESTIGATION	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSES, ETC.	
CREDIT UNIONS	

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 4TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT Y-31

77 I. V. ROBINSON C
416-09-6725

T. C. I. EXHIBIT Y-32

77 I. V. ROBINSON C
416-09-6725

T. C. I. EXHIBIT Y-33

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER Nov. 1941

77 I. V. ROBINSON C
416-09-6729

RECEIVED PAYMENT IN FULL

AMOUNT

Approved, and the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-09-6729

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 3RD PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form S-B-C-3d-41

T. C. I. EXHIBIT Y-34

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER Nov. 1941

Y-34

77 I. V. ROBINSON C
416-09-6729

AMOUNT

RECEIVED PAYMENT IN FULL

Approved, and the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

I. V. ROBINSON C
416-09-6729

1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT	
HOURS	48	77	36	96
"				
"				
" RATE ADJUSTMENT		.10		
INCENTIVE				
INCENTIVE EXPLOSIVE				
TOTAL EARNINGS			36	96
TOTAL DEDUCTIONS			1	74
BALANCE DUE			35	22

DETAIL OF DEDUCTIONS

SUPPLIES		
ACCIDENT & HEALTH INSURANCE		
ALA. UNEMPLOYMENT INSURANCE		37
FED. OLD AGE SEC. TAX		37
GARNISHMENTS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		
MEDICAL FEE		
TENNESSEE LAND CO.		
RENT, ELECTRICITY AND WATER	1	87
RENT-DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ACCOUNTS		
MERC. STORE		
MERC. STORE		
MERC. STORE		
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSE, ETC.		
CREDIT UNION		

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 4TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form S-B-D-4th-41

T. C. I. EXHIBIT Y-35

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

April-1941

77 Y-35

77 I. V. ROBINSON C V
416-09-6729

RECEIVED PAYMENT IN FULL

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

I. V. ROBINSON C
416-09-6729

APR 30 1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	40	77	30 80
"			
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			30 80
TOTAL DEDUCTIONS			14 17
BALANCE DUE			16 63

DETAIL OF DEDUCTIONS

SUPPLIES	30
ACCIDENT & HEALTH INSURANCE	
A.L.A. UNEMPLOYMENT INSURANCE	41
FED. OLD AGE BEN. TAX	31
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	120
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	215
RENT-DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MEDICAL STORES	
MEDICAL STORES	
MEDICAL STORES	
BACK INCENTIVES	
WORKS ACCIDENTS RECEIVABLE	
FUNERAL EXPENSES, ETC.	
CREDIT UNIONS	10 00

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 1ST PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT Y-36

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

April 1941

77 Y-36

77 I. V. ROBINSON C
416-09-6729

RECEIVED PAYMENT IN FULL

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-09-6729

APR 30 1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
[illegible]	4	77	31
"	1	77	77
"	32	77	24 64
" RATE ADJUSTMENT		.90	
[illegible]			
[illegible]			
TOTAL EARNINGS			25 80
TOTAL DEDUCTIONS			14 19
BALANCE DUE			11 61

DETAIL OF DEDUCTIONS

[illegible]	
[illegible]	
[illegible]	11
[illegible]	2 5
[illegible]	
[illegible]	
[illegible]	1 00
[illegible]	
[illegible]	3 00
[illegible]	
[illegible]	
[illegible]

T. C. I. EXHIBIT Y-37

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

April 1941

77 Y-37

77 I. V. ROBINSON C
416-03-6723

AMOUNT

RECEIVED PAYMENT IN FULL

SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-03-6723

APR 5 - 1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	42	77	36 76
"			
"			
" RATE ADJUSTMENT		10	
INCENTIVE			
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			36 96
TOTAL DEDUCTIONS			15 88
BALANCE DUE			21 08

DETAIL OF DEDUCTIONS

SUPPLIES	30
ACCIDENT & HEALTH INSURANCE	2 05
ALA. UNEMPLOYMENT INSURANCE	26
FED. OLD AGE BEN. TAX	37
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	3 00
RENT-DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	10 00

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 3RD PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT Y-38

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

April 1941

77 Y-38

77 I. V. ROBINSON C
416-03-6723

AMOUNT

RECEIVED PAYMENT IN FULL

SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-03-6723

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	24	77	18 48
"			
"			
" RATE ADJUSTMENT		10	
INCENTIVE			5 56
INCENTIVE EXPLOSIVE			2 88
TOTAL EARNINGS			27 92
TOTAL DEDUCTIONS			82
BALANCE DUE			27 10

DETAIL OF DEDUCTIONS

SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	14
FED. OLD AGE BEN. TAX	68
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	
RENT- DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 4TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form B 30-D-66-5-41

T. C. I. EXHIBIT Y-39

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77 I. V. ROBINSON C
416-03-6729

RECEIVED PAYMENT IN FULL

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-03-6729

MAY 31 - 1941

EMPLOYEE TO KEEP THIS PART

T. C. I. EXHIBIT Y-40

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77 I. V. ROBINSON C
416-03-6729

RECEIVED PAYMENT IN FULL

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-03-6729

MAY 31 - 1941

EMPLOYEE TO KEEP THIS PART

T. C. I. EXHIBIT Y-41

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER 7-19-1941

77

77 I. V. ROBINSON
416-02-87[illegible]

RECEIVED PAYMENT IN FULL

AMOUNT

SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-02-87[illegible]

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	77	[illegible]	[illegible]
"			
"			
" RATE ADJUSTMENT		.10	[illegible]
INCENTIVE			
INCENTIVE EXPLOSIVE			[illegible]
TOTAL EARNINGS			[illegible]
TOTAL DEDUCTIONS			[illegible]
BALANCE DUE			[illegible]

DETAIL OF DEDUCTIONS

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 8TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT Y-42

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER May 1941

77 I. V. ROBINSON C
416-02-87[illegible]

RECEIVED PAYMENT IN FULL

AMOUNT

SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-02-87[illegible]

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	48	77	36 96
"			
"			
" RATE ADJUSTMENT		10	4 80
INCENTIVE			
INCENTIVE EXPLOSIVE			3 87
TOTAL EARNINGS			45 63
TOTAL DEDUCTIONS			78
BALANCE DUE			44 85

DETAIL OF DEDUCTIONS

SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	12
FED. OLD AGE BEN. TAX	46
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	
RENT—DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 8TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT Y-45

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77 I. V. ROBINSON C
416-03-6729

RECEIVED PAYMENT IN FULL

77 I. V. ROBINSON C
416-03-6729

EMPLOYEE TO KEEP THIS PART
This is a statement of your earnings for the period and receipt for all deductions

T. C. I. EXHIBIT Y-46

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

77 I. V. ROBINSON C
416-03-6729

RECEIVED PAYMENT IN FULL

Anyone, not the person whose name appears above, or who, without its consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

77 I. V. ROBINSON C
416-03-6729

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	50	77	30 50
"			
"			
" RATE ADJUSTMENT	40 Hrs @	.10	4 00
INCENTIVE			7 85
INCENTIVE EXPLOSIVE			1 35
TOTAL EARNINGS			44 09
TOTAL DEDUCTIONS			7 83
BALANCE DUE			43 26

DETAIL OF DEDUCTIONS	
SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	11
FED. OLD AGE BEN. TAX	44
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	
RENT—DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MISC. STORE	
MISC. STORE	
MISC. STORE	
BACK INVESTMENTS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	

EMPLOYEE TO KEEP THIS PART
This is a statement of your earnings for the period and receipt for all deductions

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-1

W-FRED H. TRAMELL
416-09-6637

MAY. 41

AMOUNT
21 65

RECEIVED PAYMENT IN FULL

Fred Tramell
SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT V-1

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-2

W-FRED H. TRAMELL
416-09-6637

MAY. 41

AMOUNT
23 09

RECEIVED PAYMENT IN FULL

Fred Tramell
SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT V-2

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-3

W-FRED H. TRAMELL
416-09-6637

RH-H
MAY-41

AMOUNT
47 74

RECEIVED PAYMENT IN FULL

Fred Tramell
SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT V-3

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-4

W-FRED H. TRAMELL
416-09-6637

MAY

AMOUNT
26 27

RECEIVED PAYMENT IN FULL

Fred Tramell
SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT V-5

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-5

W-FRED H. TRAMELL
416-09-6637

RH-H
MAY-4

AMOUNT
22 42

RECEIVED PAYMENT IN FULL

SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT V-6

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-6

W-FRED H. TRAMELL
416-09-6637

H-H
MAY-41

AMOUNT
50 63

RECEIVED PAYMENT IN FULL

Fred Tramell
SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT V-7

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-7

W-FRED H. TRAMELL
416-09-6637

RH-H
APR

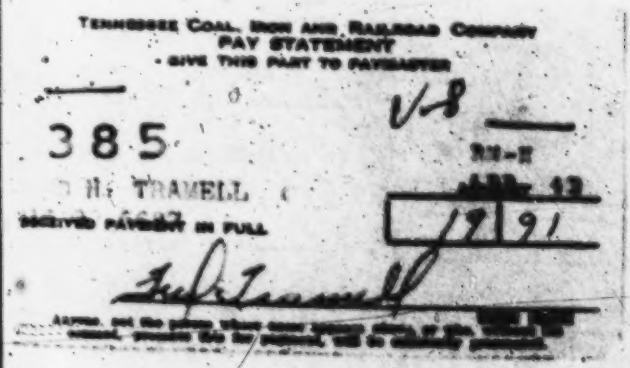
AMOUNT
14 14

RECEIVED PAYMENT IN FULL

Fred Tramell
SIGN HERE

Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

T. C. I. EXHIBIT V-8


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
- GIVE THIS PART TO PAYMASTER

V-8

385

H. TRAMELL

RR-H

APR. 12

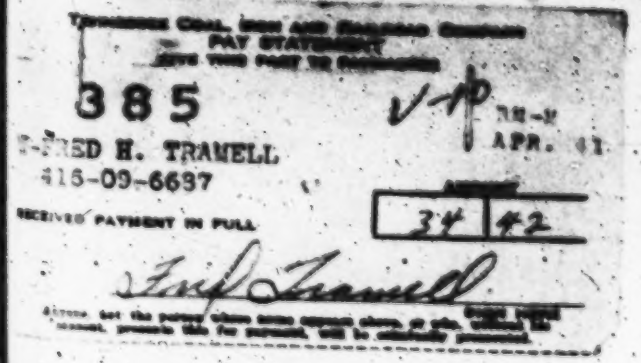
RECEIVED PAYMENT IN FULL

19 | 91

T. C. I. EXHIBIT V-9

385

T. C. I. EXHIBIT V-10


PAY STATEMENT

385

V-10

RR-H

APR. 41

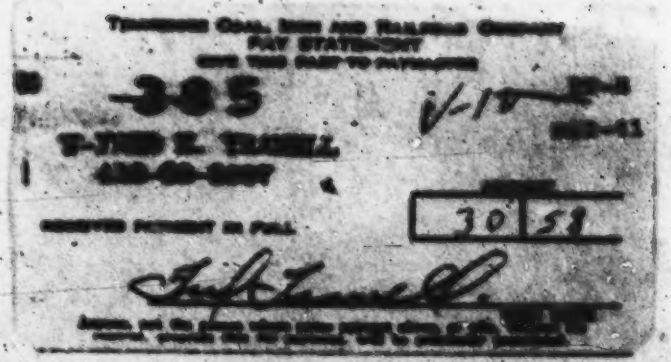
W-FRED H. TRAMELL

416-09-6637

RECEIVED PAYMENT IN FULL

34 | 42

T. C. I. EXHIBIT V-12


385

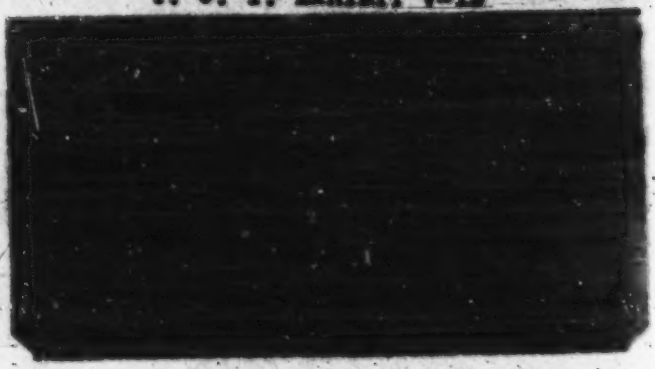
V-10

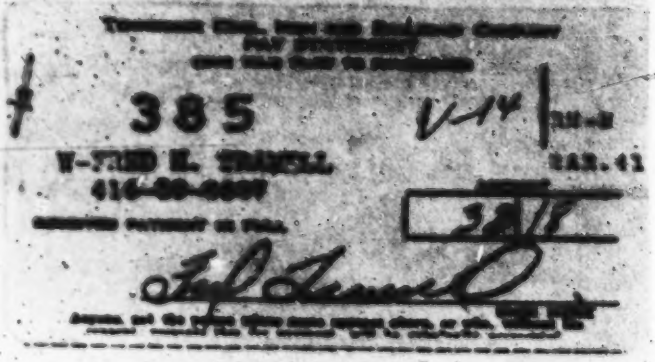
W-FRED H. TRAMELL

RECEIVED PAYMENT IN FULL

30 | 58

T. C. I. EXHIBIT V-13


T. C. I. EXHIBIT V-14


385

V-14

RR-H

MAR. 41

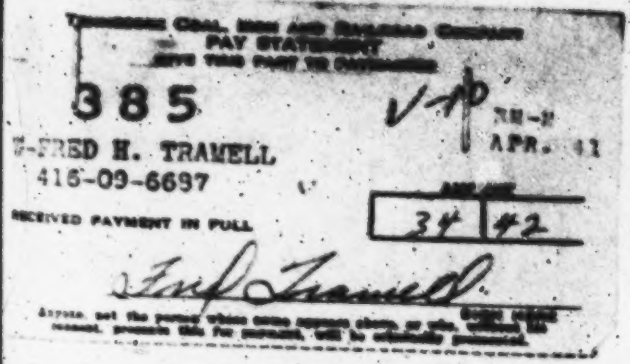
W-FRED H. TRAMELL

416-09-6637

RECEIVED PAYMENT IN FULL

38 | 11

T. C. I. EXHIBIT V-10


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-10 RM-M APR. 41

W-FRED H. TRAMELL
416-09-6697

AMOUNT 34 42

RECEIVED PAYMENT IN FULL

Fred Tramell

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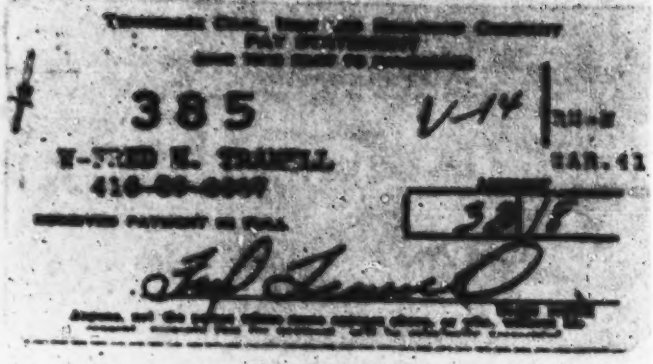
T. C. I. EXHIBIT V-14


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-14 RM-M MAR. 41

W-FRED H. TRAMELL
416-09-6697

AMOUNT 32 15

RECEIVED PAYMENT IN FULL

Fred Tramell

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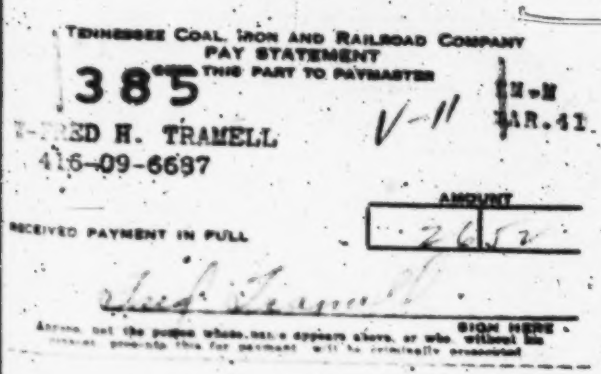
T. C. I. EXHIBIT V-11


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-11 RM-M MAR. 41

W-FRED H. TRAMELL
416-09-6697

AMOUNT 26 52

RECEIVED PAYMENT IN FULL

Fred Tramell

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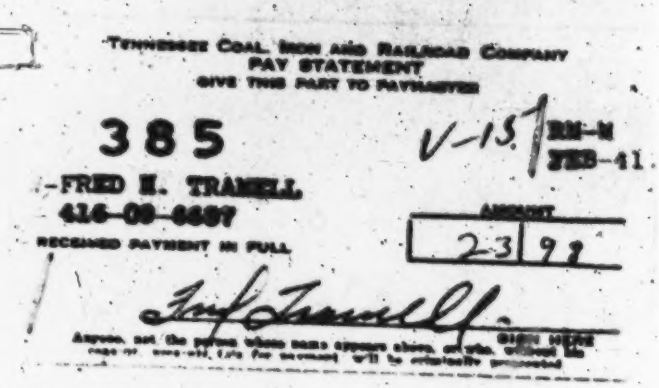
T. C. I. EXHIBIT V-15


TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385 V-15 RM-M FEB-41

-FRED H. TRAMELL
416-09-6697

AMOUNT 23 91

RECEIVED PAYMENT IN FULL

Fred Tramell

Anyone, not the person whose name appears above, or who, without lawful authority, presents this for payment, will be criminally prosecuted.

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T. C. I. EXHIBIT V-16

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385

V-16

FRED H. TRAMEL
416-09-6657

FEB.41

AMOUNT
11 30

RECEIVED PAYMENT IN FULL

Fred Tramel

Anyone, not the person whose name appears above, or who cannot give this for payment will be criminally prosecuted.

T. C. I. EXHIBIT V-17

T. C. I. EXHIBIT V-18

T. C. I. EXHIBIT V-20

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385

V-20

RECEIVED PAYMENT IN FULL

20 93

Fred Tramel

T. C. I. EXHIBIT V-21

T. C. I. EXHIBIT V-22

T. C. I. EXHIBIT V-24

TENNESSEE COAL IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

V-24

AMOUNT

RECEIVED PAYMENT IN FULL

SIGN HERE

Anyone, not the person whose name appears above or who, without the consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	48	77	36 96
"			
"			
RATE ADJUSTMENT		.10	
INCENTIVE			
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			36 96
TOTAL DEDUCTIONS			31 58
BALANCE DUE			5 38

DETAIL OF DEDUCTIONS

SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
"	
ALA. UNEMPLOYMENT INSURANCE	37
FED. OLD AGE BEN. TAX	37
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	1 20
MEDICAL FEE	
TENNESSEE LAND CO.	22 14
RENT, ELECTRICITY AND WATER	
RENT DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	2 10
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	6 50

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 1ST PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT V-25

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

Jan 1941

V-25

W. FRED H. TRANELL
416-00-6637

AMOUNT

RECEIVED PAYMENT IN FULL

SIGN HERE

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TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

365

W. FRED H. TRANELL
416-00-6637

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	27	77	20 79
"	24	77	18 48
"	5½	77	4 24
RATE ADJUSTMENT		.10	
INCENTIVE			7 19
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			50 70
TOTAL DEDUCTIONS			29 99
BALANCE DUE			20 93

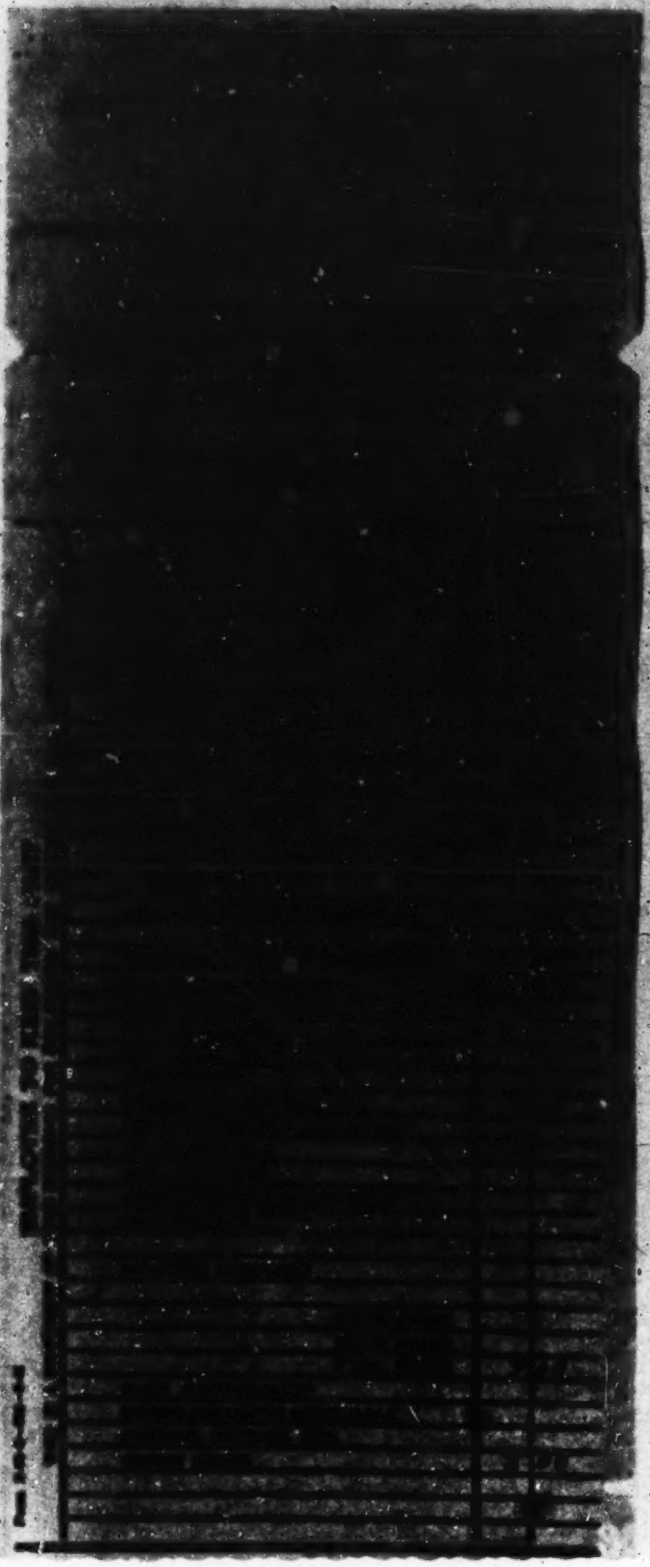
DETAIL OF DEDUCTIONS

SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	51
FED. OLD AGE BEN. TAX	51
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	1 75
TENNESSEE LAND CO.	12 00
RENT, ELECTRICITY AND WATER	
RENT DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	7 00
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	6 00

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 2ND PERIOD AND RECEIPT FOR ALL DEDUCTIONS

There is No T. C. I.
Exhibit V-36

T. C. I. EXHIBIT V-37



T. C. I. EXHIBIT V-38

Tennessee Coal, Iron and Railroad Company
PAY STATEMENT
KEEP THIS PART TO PROTECT YOU

Jan 1941

385

385 W-FRED H. TRAWELL
416-09-6637

V-38

RECEIVED PAYMENT IN FULL

Tennessee Coal, Iron and Railroad Company
PAY STATEMENT

385

W-FRED H. TRAWELL
416-09-6637 JAN 4. 1941

KIND OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	4	77	3 02
"	56	77	43 12
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			10 37
INCENTIVE EQUALIZE			
TOTAL EARNINGS			56 53
TOTAL DEDUCTIONS			7 14
BALANCE DUE			49 45

DETAIL OF DEDUCTIONS

SURPLUS		
RETIREMENT & HEALTH INSURANCE		
OLD A. UNEMPLOYMENT INSURANCE		57
FED. OLD AGE INS. TAX		57
CONTRIBUTIONS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		
HOSPITAL FEE		
TENNESSEE LAND CO.		
RENT, ELECTRICITY AND WATER		
RENT—DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ASSESSMENTS		
MERC. STORE		
MERC. STORE		
MERC. STORE		6 00
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSE, ETC.		
CREDIT UNION		

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 6TH PERIOD AND MONTH, AND ALL DEDUCTIONS

T. C. I. EXHIBIT V-29

Tennessee Coal, Iron and Railroad Company
PAY STATEMENT
SAVE THIS SLIP TO PRESENTER

Feb. 1941

385

V-FRED H. TRAWICK
416-03-6837

RECEIVED PAYMENT IN FULL V-29

Tennessee Coal, Iron and Railroad Company
PAY STATEMENT

385

V-FRED H. TRAWICK
416-03-6837

FEB 15 1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	7	.77	6 16
"	36	.77	27 72
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			33 88
TOTAL DEDUCTIONS			25 30
BALANCE DUE			8 58

DETAIL OF DEDUCTIONS

SUPPLIES		
ACCIDENT & HEALTH INSURANCE		
ALA. UNEMPLOYMENT INSURANCE		44
FED. OLD AGE BEN. TAX		44
GARNISHMENTS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		1 20
MEDICAL FEE		
TENNESSEE LAND CO.		7 62
RENT, ELECTRICITY AND WATER		
RENT—DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ACCOUNTS		
MERC. STORE		
MERC. STORE		
MERC. STORE		7 00
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSE, ETC.		
CREDIT UNION		4 50

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 1ST PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT V-30

Tennessee Coal, Iron and Railroad Company
PAY STATEMENT

Feb. 1941

385

385 V-FRED H. TRAWICK
416-03-6837

RECEIVED PAYMENT IN FULL V-30

Tennessee Coal, Iron and Railroad Company
PAY STATEMENT

385

385 V-FRED H. TRAWICK
416-03-6837

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS			
"			
"			
" RATE ADJUSTMENT			
INCENTIVE			
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			33 88
TOTAL DEDUCTIONS			22 58
BALANCE DUE			11 30

DETAIL OF DEDUCTIONS

SUPPLIES		
ACCIDENT & HEALTH INSURANCE		
ALA. UNEMPLOYMENT INSURANCE		33
FED. OLD AGE BEN. TAX		33
GARNISHMENTS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		
MEDICAL FEE		1 25
TENNESSEE LAND CO.		7 62
RENT, ELECTRICITY AND WATER		
RENT—DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ACCOUNTS		
MERC. STORE		
MERC. STORE		
MERC. STORE		10 00
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSE, ETC.		
CREDIT UNION		4 50

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 2ND PERIOD AND RECEIPT FOR ALL DEDUCTIONS

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
385 GIVE THIS PART TO PAYMASTER

I-FRED H. TRAMELL
416-09-6687

V-18 RM-M
FEB.41

AMOUNT
27 51

RECEIVED PAYMENT IN FULL

I-Fred Tramell

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receipt endorsed hereon for payment will be criminally prosecuted

T. C. I. EXHIBIT V-19

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385

V-19 RM-M
JAN-41

I-FRED H. TRAMELL
416-09-6687

AMOUNT
5 38

RECEIVED PAYMENT IN FULL

I-Fred Tramell

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receipt endorsed hereon for payment will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385

V-22

I-FRED H. TRAMELL
416-09-6687

AMOUNT
43 45

RECEIVED PAYMENT IN FULL

I-Fred Tramell

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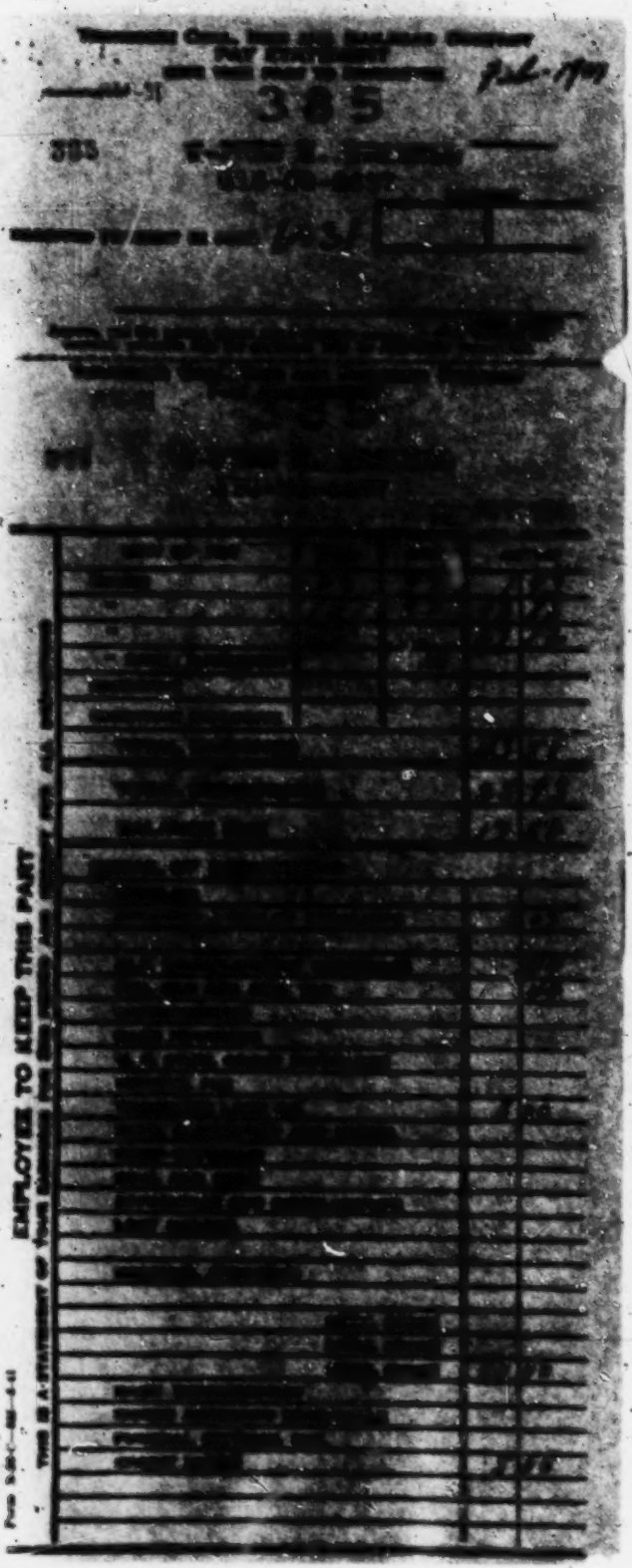
There is no T. C. I.
Exhibit V-22

T. C. I. EXHIBIT V-31



T. C. I. EXHIBIT V-32

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

[illegible] H. T. [illegible]
[illegible]

AMOUNT

RECEIVED PAYMENT IN FULL

V-32

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TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

[illegible] H. TRAMEL
416-00-6[illegible]7

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 4TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	4	77	39
"	1	77	77
"	32	77	24 64
" RATE ADJUSTMENT		.10	
INCENTIVE			6 35
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			32 15
TOTAL DEDUCTIONS			4 64
BALANCE DUE			27 51

DETAIL OF DEDUCTIONS	
SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	32
FED. OLD AGE BEN. TAX	32
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	
RENT—DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	4 00
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	

Form P.R.D.-PY 5-41

T. C. I. EXHIBIT V-33

T. C. I. EXHIBIT V-34

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMENTEE

Jan. 1941

385

385 W-FRED H. TRAWELL
416-09-6637

RECEIVED PAYMENT IN FULL

V-33

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TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

385

385 W-FRED H. TRAWELL
416-09-6637

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	47	77	36 19
"	45	77	34 65
"	16	77	12 32
" RATE ADJUSTMENT		.10	
INCENTIVE			
INDUSTRIAL EXPLOSIVE			
TOTAL EARNINGS			83 16
TOTAL DEDUCTIONS			25 46
BALANCE DUE			57 70

DETAIL OF DEDUCTIONS

SUPPLIES		10
ACCIDENT & HEALTH INSURANCE		
ALA. UNEMPLOYMENT INSURANCE		52
FED. OLD AGE INS. TAX		52
GARNISHMENTS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		1 50
MEDICAL FEE		
TENNESSEE LAND CO.		7 62
RENT, ELECTRICITY AND WATER		
RENT--DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ACCOUNTS		
MERC. STORE		
MERC. STORE		
MERC. STORE		9 00
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSE, ETC.		
CREDIT UNION		6 50

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 1ST PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form S-B-1--W--41

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMENTEE

Jan. 1941

385

385 W-FRED H. TRAWELL
416-09-6637

RECEIVED PAYMENT IN FULL

V-34

Anyone, not the person whose name appears above, or who, without an account, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

385

385 W-FRED H. TRAWELL
416-09-6637

MAR 7, 1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	47	77	36 19
"	45	77	34 65
"	16	77	12 32
" RATE ADJUSTMENT		.10	
INCENTIVE			7 37
INDUSTRIAL EXPLOSIVE			
TOTAL EARNINGS			90 73
TOTAL DEDUCTIONS			24 85
BALANCE DUE			65 88

DETAIL OF DEDUCTIONS

SUPPLIES		
ACCIDENT & HEALTH INSURANCE		
ALA. UNEMPLOYMENT INSURANCE		52
FED. OLD AGE INS. TAX		52
GARNISHMENTS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		
MEDICAL FEE		1 75
TENNESSEE LAND CO.		7 00
RENT, ELECTRICITY AND WATER		
RENT--DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ACCOUNTS		
MERC. STORE		
MERC. STORE		
MERC. STORE		8 00
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSE, ETC.		
CREDIT UNION		6 00

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 1ST PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form S-B-1--W--41

T. C. I. EXHIBIT V-35

T. C. I. EXHIBIT V-36

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

[redacted] H. TRAWICK
416-22-[redacted]

AMOUNT

RECEIVED PAYMENT IN FULL

V-36

SIGN HERE

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TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

385 W-FRED H. TRAWICK
416-22-[redacted]

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 4TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form S-53-B—M—4-43

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	3/4	77	57
"	16	77	1 16
"	48	77	36 96
" RATE ADJUSTMENT		.10	
INCENTIVE			3 33
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			42 02
TOTAL DEDUCTIONS			8 84
BALANCE DUE			33 18
DETAIL OF DEDUCTIONS			
SUPPLIES			
ACCIDENT & HEALTH INSURANCE			
ALA. UNEMPLOYMENT INSURANCE			42
FED. OLD AGE BEN. TAX			42
GARNISHMENTS			
CASH ADVANCES			
U. S. STEEL GROUP INSURANCE			
MEDICAL FEE			
TENNESSEE LAND CO.			
RENT, ELECTRICITY AND WATER			
RENT—DEFERRED			
COAL AND COKE			
APPRENTICE AND SCHOLARSHIPS			
LOST BADGES			
HOSPITAL ACCOUNTS			
MERC. STORE			
MERC. STORE			
MERC. STORE			8 00
BACK INDEBTEDNESS			
WORKS ACCOUNTS RECEIVABLE			
FUNERAL EXPENSE, ETC.			
CREDIT UNION			

T. C. I. EXHIBIT V-37

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER April 1941

[illegible] H. [illegible]
[illegible]

AMOUNT

RECEIVED PAYMENT IN FULL

V-37

Above, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

[illegible] H. [illegible]
[illegible] 1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	52	77	40 43
"			
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			40 43
TOTAL DEDUCTIONS			26 29
BALANCE DUE			14 14

DETAIL OF DEDUCTIONS

SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	22
FED. OLD AGE BEN. TAX	40
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	120
MEDICAL FEE	
TENNESSEE LAND CO.	200
RENT, ELECTRICITY AND WATER	
RENT-DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	150
MERC. STORE	
MERC. STORE	
MERC. STORE	1779
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	775

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 1ST PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT V-38

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER April 1941

385
385 V-FRED H. TRAMELL
416-03-6637

AMOUNT

RECEIVED PAYMENT IN FULL

V-38

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TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
385
V-FRED H. TRAMELL
416-03-6637
[illegible] 1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	52	77	40 43
"	16	77	12 32
"	32	77	24 64
" RATE ADJUSTMENT		.10	
INCENTIVE			4 23
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			45 43
TOTAL DEDUCTIONS			25 52
BALANCE DUE			19 91

DETAIL OF DEDUCTIONS

SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	32
FED. OLD AGE BEN. TAX	45
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	175 200
RENT, ELECTRICITY AND WATER	
RENT-DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	1 00
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	00

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 2ND PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT V-41

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER May 1941

[illegible] D H. TRAWELL
[illegible]

RECEIVED PAYMENT IN FULL — AMOUNT

V-41

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Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

[illegible] D H. TRAWELL
[illegible] MAY [illegible] 1941

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 1ST PERIOD AND RECEIPT FOR ALL DEDUCTIONS

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	8	77	3 08
"	56	77	43 12
"			
" RATE ADJUSTMENT		.10	6 00
INCENTIVE Rd 26, Rd 8			20 60
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			72 80
TOTAL DEDUCTIONS			25 06
BALANCE DUE			47 74

DETAIL OF DEDUCTIONS	
SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	51
FED. OLD AGE BEN. TAX	73
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	1 20
MEDICAL FEE	
TENNESSEE LAND CO.	1 62
RENT, ELECTRICITY AND WATER	
RENT—DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	7 00
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	7 00

Form S.S.S.—RE—441

T. C. I. EXHIBIT V-42

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

[illegible] 383
[illegible] D H. TRAWELL
[illegible]

RECEIVED PAYMENT IN FULL — AMOUNT

V-42

SIGN HERE
Anyone, not the person whose name appears above, or who, without his consent, presents this for payment, will be criminally prosecuted.

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

[illegible] 383
D H. TRAWELL
416-03-6637
MAY [illegible] 1941

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 2ND PERIOD AND RECEIPT, FOR ALL DEDUCTIONS

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	8	7.45	5 96
"	32	77	24 64
"			
" RATE ADJUSTMENT		.10	4 00
INCENTIVE			16 24
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			50 84
TOTAL DEDUCTIONS			24 62
BALANCE DUE			26 22

DETAIL OF DEDUCTIONS	
SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	36
FED. OLD AGE BEN. TAX	51
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	1 75
TENNESSEE LAND CO.	8 00
RENT, ELECTRICITY AND WATER	
RENT—DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	7 00
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	7 00

Form S.S.S.—RE—441

T. C. I. EXHIBIT V-39

Tennessee Coal, Iron and Railroad Company
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

385

385 V-FRED H. TRAMEL
416-03-6857

RECEIVED PAYMENT IN FULL

V-39

Tennessee Coal, Iron and Railroad Company
PAY STATEMENT

385

385 V-FRED H. TRAMEL
416-03-6857

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	8	77	6 16
"	32	77	24 64
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			2 30
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			33 10
TOTAL DEDUCTIONS			5 68
BALANCE DUE			27 42

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 3RD PERIOD AND RECEIPT FOR ALL DEDUCTIONS

DETAIL OF DEDUCTIONS	
SUPPLIES	1 78
ACCIDENT & HEALTH INSURANCE	2 00
ALA. UNEMPLOYMENT INSURANCE	18
FED. OLD AGE BEN. TAX	42
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	1 00
RENT, ELECTRICITY AND WATER	
RENT DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	1 00
MERC. STORE	
MERC. STORE	
MERC. STORE	2 00
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	5 00

Form D-36-D—6M—3-41

T. C. I. EXHIBIT V-40

Tennessee Coal, Iron and Railroad Company
PAY STATEMENT
GIVE THIS PART TO PAYMASTER April 1941

V-FRED H. TRAMEL
416-03-6857

AMOUNT

RECEIVED PAYMENT IN FULL

V-40

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Tennessee Coal, Iron and Railroad Company
PAY STATEMENT

V-FRED H. TRAMEL
416-03-6857

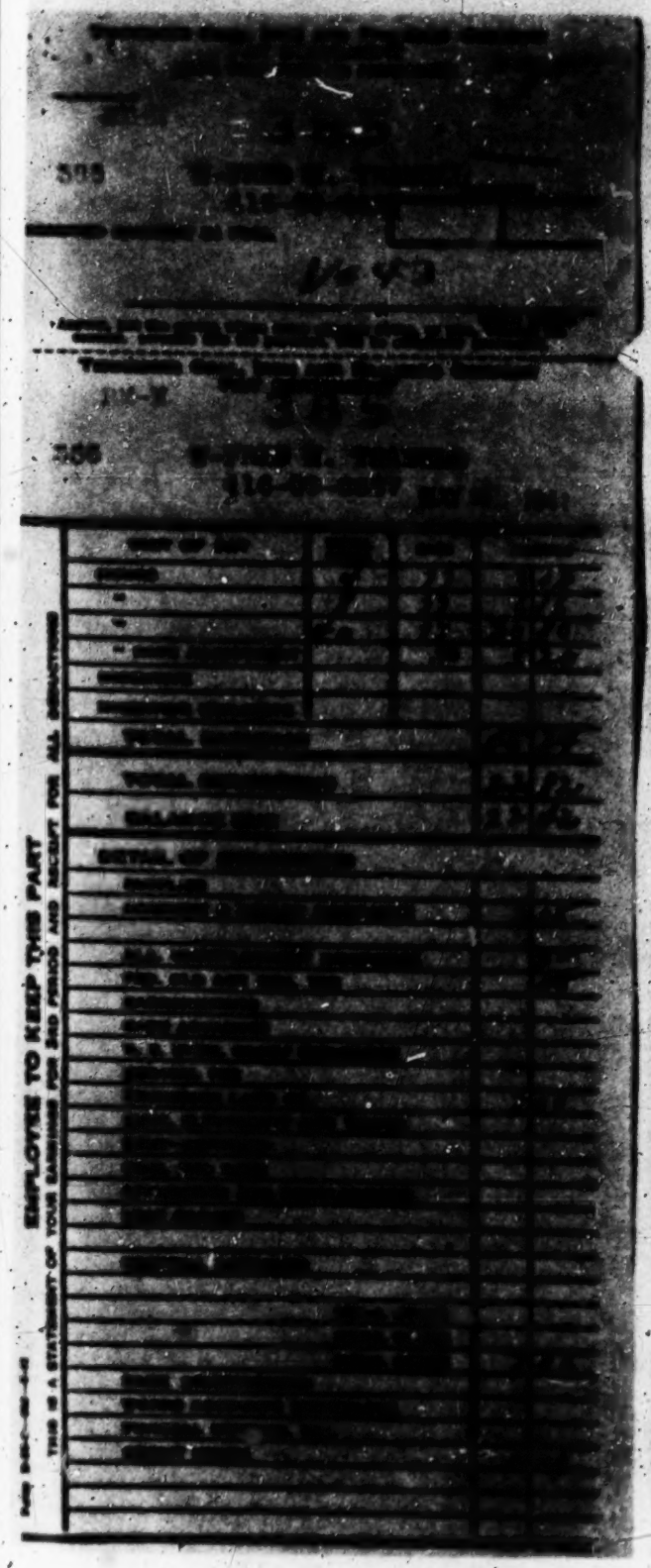
UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	8	77	6 16
"	32	77	24 64
"			
" RATE ADJUSTMENT		.10	
INCENTIVE			2 30
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			33 10
TOTAL DEDUCTIONS			5 68
BALANCE DUE			27 42

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 3TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

DETAIL OF DEDUCTIONS	
SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	18
FED. OLD AGE BEN. TAX	42
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	
RENT DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	1 00
MERC. STORE	
MERC. STORE	
MERC. STORE	2 00
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	

Form D-36-D—6M—3-41

T. C. I. EXHIBIT V-43



T. C. I. EXHIBIT V-44

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER

May 1961

[redacted]

AMOUNT

RECEIVED PAYMENT IN FULL

V-44

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TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

[redacted]

EMPLOYEE TO KEEP THIS PART

THIS IS A STATEMENT OF YOUR EARNINGS FOR 4TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	48	77	36 96
"			
"			
" RATE ADJUSTMENT		.10	4 80
INCENTIVE			13 82
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			55 58
TOTAL DEDUCTIONS			4 95
BALANCE DUE			50 63

DETAIL OF DEDUCTIONS

SUPPLIES	
ACCIDENT & HEALTH INSURANCE	
ALA. UNEMPLOYMENT INSURANCE	37
FED. OLD AGE BEN. TAX	56
GARNISHMENTS	
CASH ADVANCES	
U. S. STEEL GROUP INSURANCE	
MEDICAL FEE	
TENNESSEE LAND CO.	
RENT, ELECTRICITY AND WATER	
RENT-DEFERRED	
COAL AND COKE	
APPRENTICE AND SCHOLARSHIPS	
LOST BADGES	
HOSPITAL ACCOUNTS	
MERC. STORE	
MERC. STORE	
MERC. STORE	4 00
BACK INDEBTEDNESS	
WORKS ACCOUNTS RECEIVABLE	
FUNERAL EXPENSE, ETC.	
CREDIT UNION	

EMPLOYEE TO KEEP THIS PART

THIS IS A STATEMENT OF YOUR EARNINGS FOR 4TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

T. C. I. EXHIBIT V-45

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER 4th Quarter 1941

385

W-FRED H. TRAMELL
416-09-6697

AMOUNT

RECEIVED PAYMENT IN FULL

V-45

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SIGN HERE

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

W-FRED H. TRAMELL
416-09-6697

JUN 7 1941

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS	60	.77	46 20
"			
"			
" RATE ADJUSTMENT	60 Hrs	.10	6 00
INCENTIVE			
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			52 20
TOTAL DEDUCTIONS			23 94
BALANCE DUE			28 26

DETAIL OF DEDUCTIONS

SUPPLIES		
ACCIDENT & HEALTH INSURANCE		2 05
ALA. UNEMPLOYMENT INSURANCE		37
FED. OLD AGE BEN. TAX		52
GARNISHMENTS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		
MEDICAL FEE		
TENNESSEE LAND CO.		2 00
RENT, ELECTRICITY AND WATER		
RENT—DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ACCOUNTS		
MERC. STORE		
MERC. STORE		
Recovered MERC. STORE		7 00
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSE, ETC.		
CREDIT UNION		4 00

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 3RD PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form 3-B-D (3E-4-41)

T. C. I. EXHIBIT V-46

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT
GIVE THIS PART TO PAYMASTER 4th Quarter 194

W. H. TRAMELL

AMOUNT

RECEIVED PAYMENT IN FULL

V-46

Anyone, not the person whose name appears above, or who, without the consent, presents this for payment, will be criminally prosecuted.

SIGN HERE

TENNESSEE COAL, IRON AND RAILROAD COMPANY
PAY STATEMENT

W. H. TRAMELL

UNIT OF PAY	TOTAL UNITS	RATE	AMOUNT
HOURS			3 36
"			
"			
" RATE ADJUSTMENT		.10	5
INCENTIVE			2 19
INCENTIVE EXPLOSIVE			
TOTAL EARNINGS			4 30
TOTAL DEDUCTIONS			1 84
BALANCE DUE			2 46

DETAIL OF DEDUCTIONS

SUPPLIES		
ACCIDENT & HEALTH INSURANCE		
ALA. UNEMPLOYMENT INSURANCE		
FED. OLD AGE BEN. TAX		37
GARNISHMENTS		
CASH ADVANCES		
U. S. STEEL GROUP INSURANCE		
MEDICAL FEE		
TENNESSEE LAND CO.		
RENT, ELECTRICITY AND WATER		
RENT DEFERRED		
COAL AND COKE		
APPRENTICE AND SCHOLARSHIPS		
LOST BADGES		
HOSPITAL ACCOUNTS		
MERC. STORE		
MERC. STORE		
MERC. STORE		1 47
BACK INDEBTEDNESS		
WORKS ACCOUNTS RECEIVABLE		
FUNERAL EXPENSE, ETC.		
CREDIT UNION		

EMPLOYEE TO KEEP THIS PART
THIS IS A STATEMENT OF YOUR EARNINGS FOR 4TH PERIOD AND RECEIPT FOR ALL DEDUCTIONS

Form 3-B-D (3E-4-41)

NO. 8 MINE	TRAVELING TIME	DISTANCE
Change house to tipple (mine portal)	9 min	2325 ft
Man loading station to working place (AVERAGE)	23 "	4585 "
" " " " " " (LONGEST DISTANCE)	28 "	6050 "
" " " " " " (SHORTEST DISTANCE)	15 "	1550 "

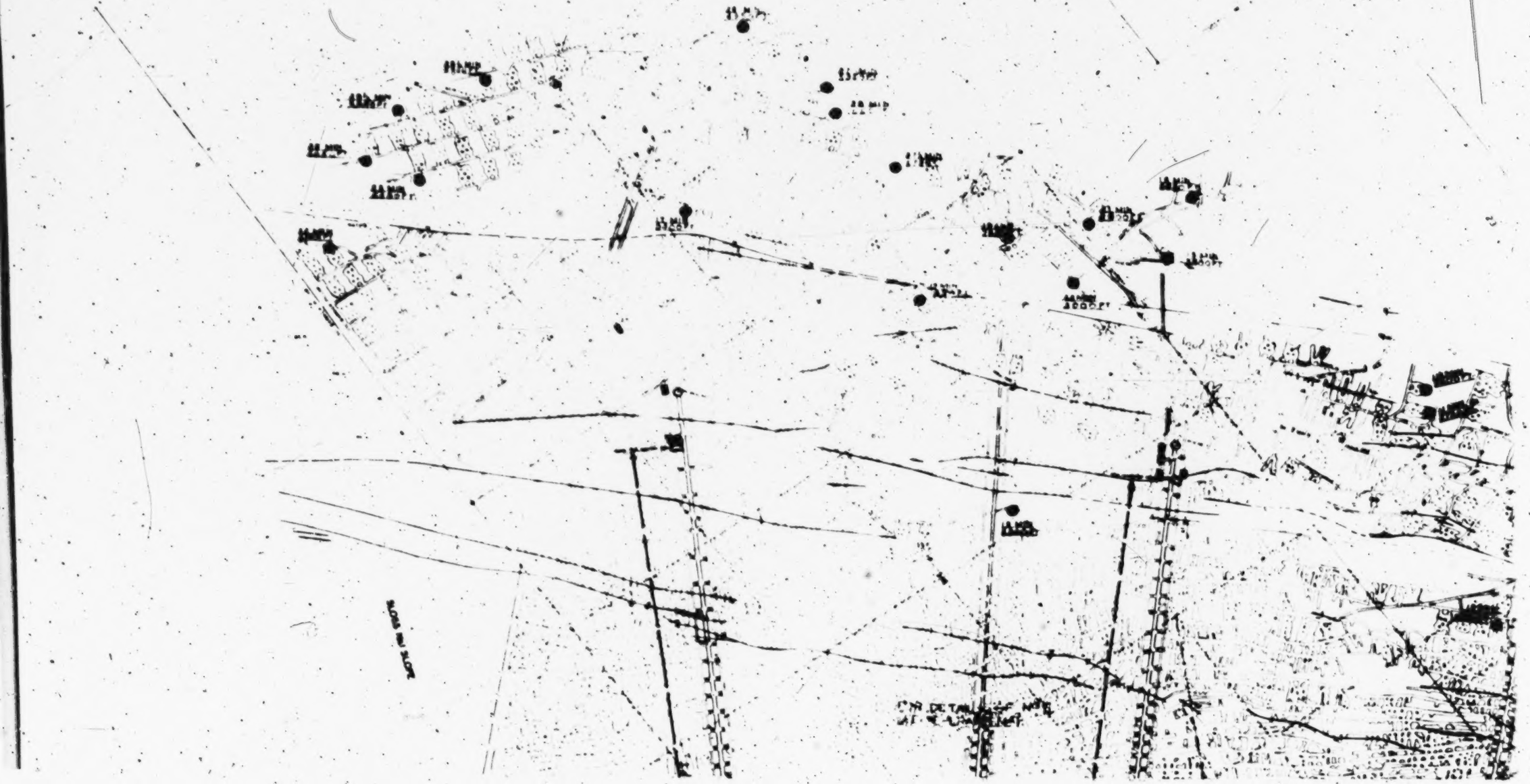
NO. 5 MINE	TRAVELING TIME	DISTANCE
Change house to tipple (mine portal)	n min	730 ft
Man loading station to working place	9 "	[illegible]
" " " " " "	94 "	1700 "
" " " " " "	3 "	350 "

WOODWARD IRON CO

NO 4 MINE	
Change house to tipple (m	
Man loading station to workl	
" " " " "	
" " " " "	

REPUBLIC IRON &

T. C. I. EXHIBIT NO. 1



5 MINE

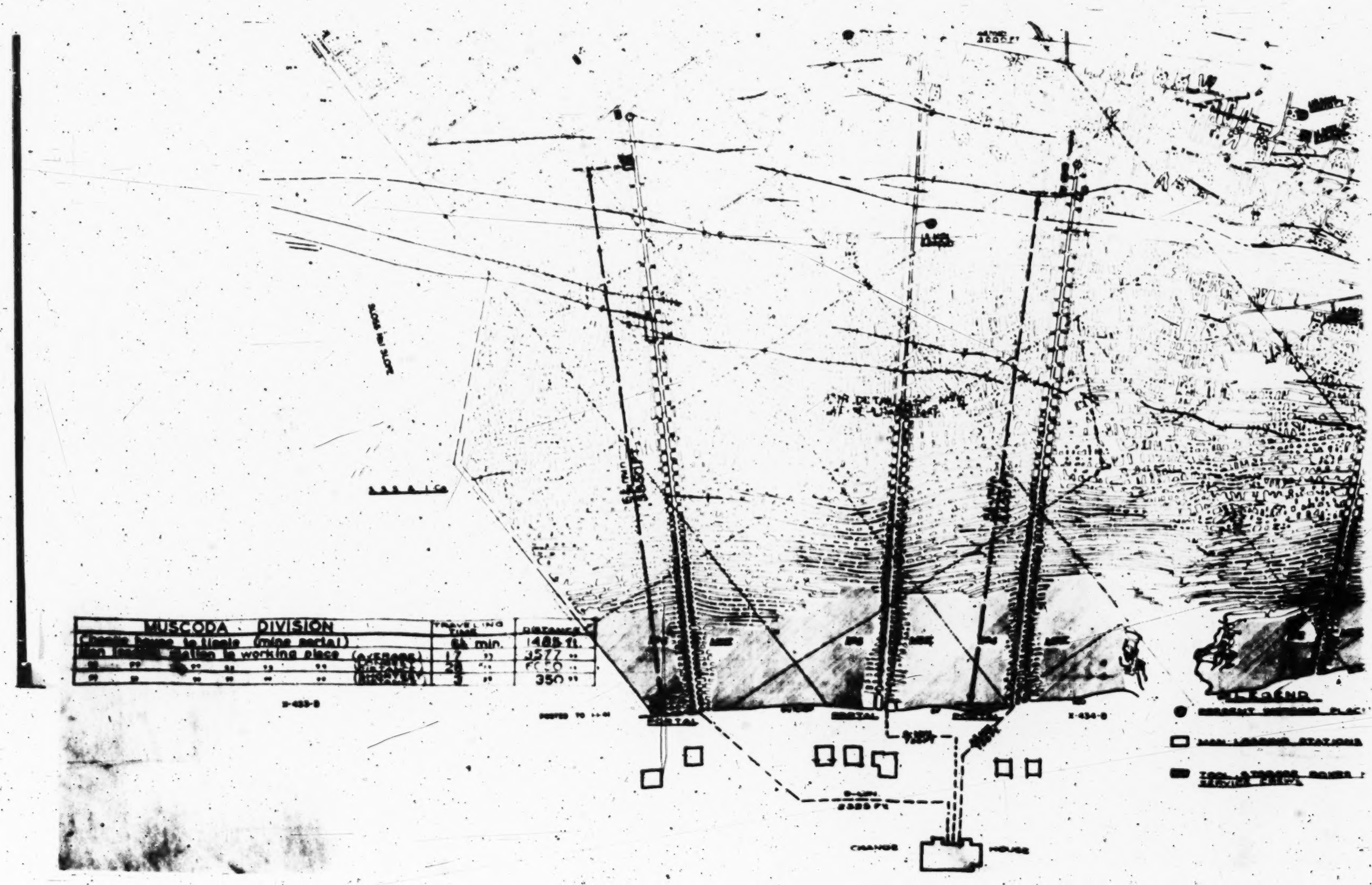
	TRAVELING TIME	DISTANCE
o tipple (mine portal)	min	730 ft.
ion to working place	"	"
" " "	9½ "	4700 "
" " "	3 "	350 "

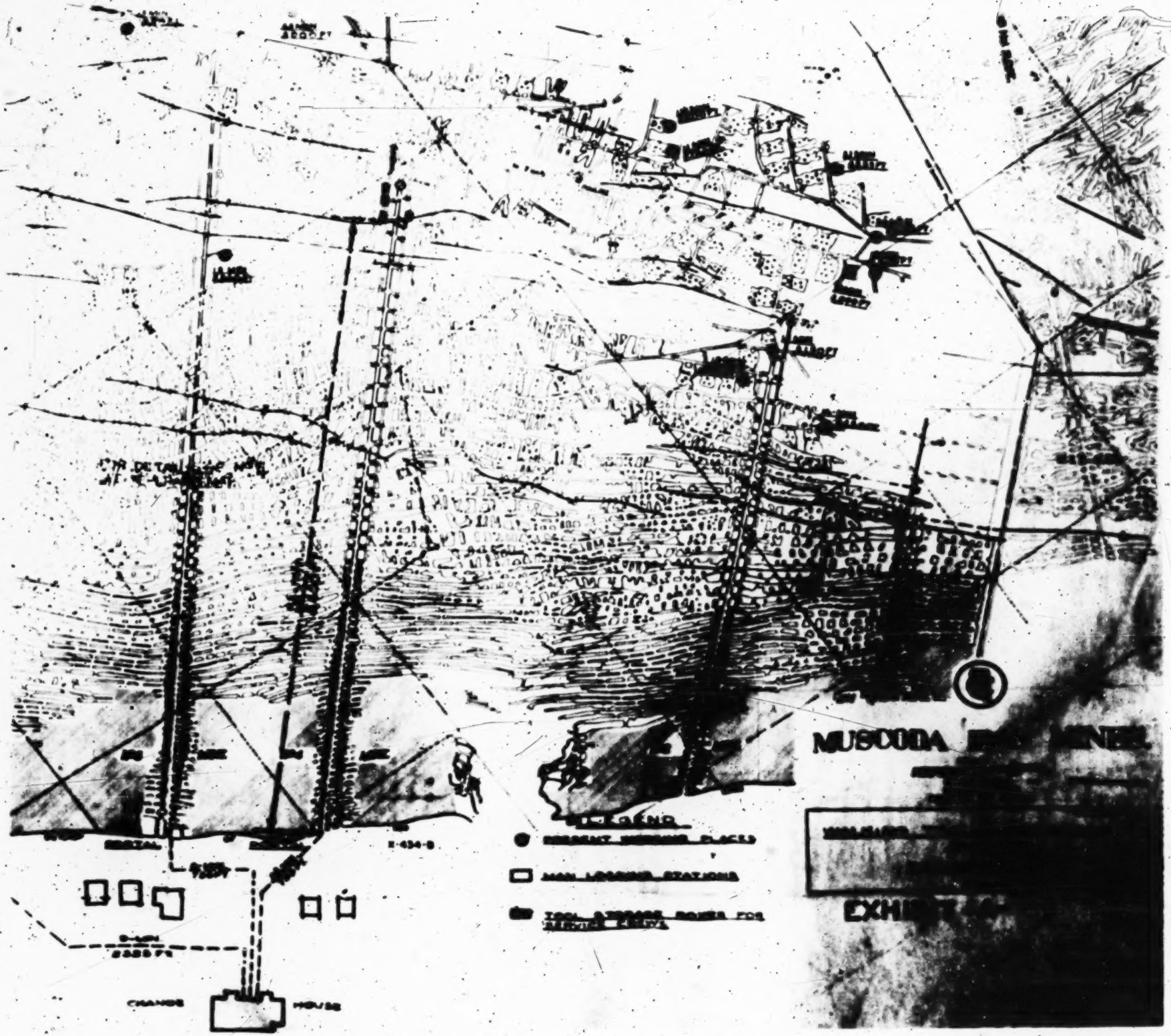
WOODWARD IRON CO

NO 4 MINE

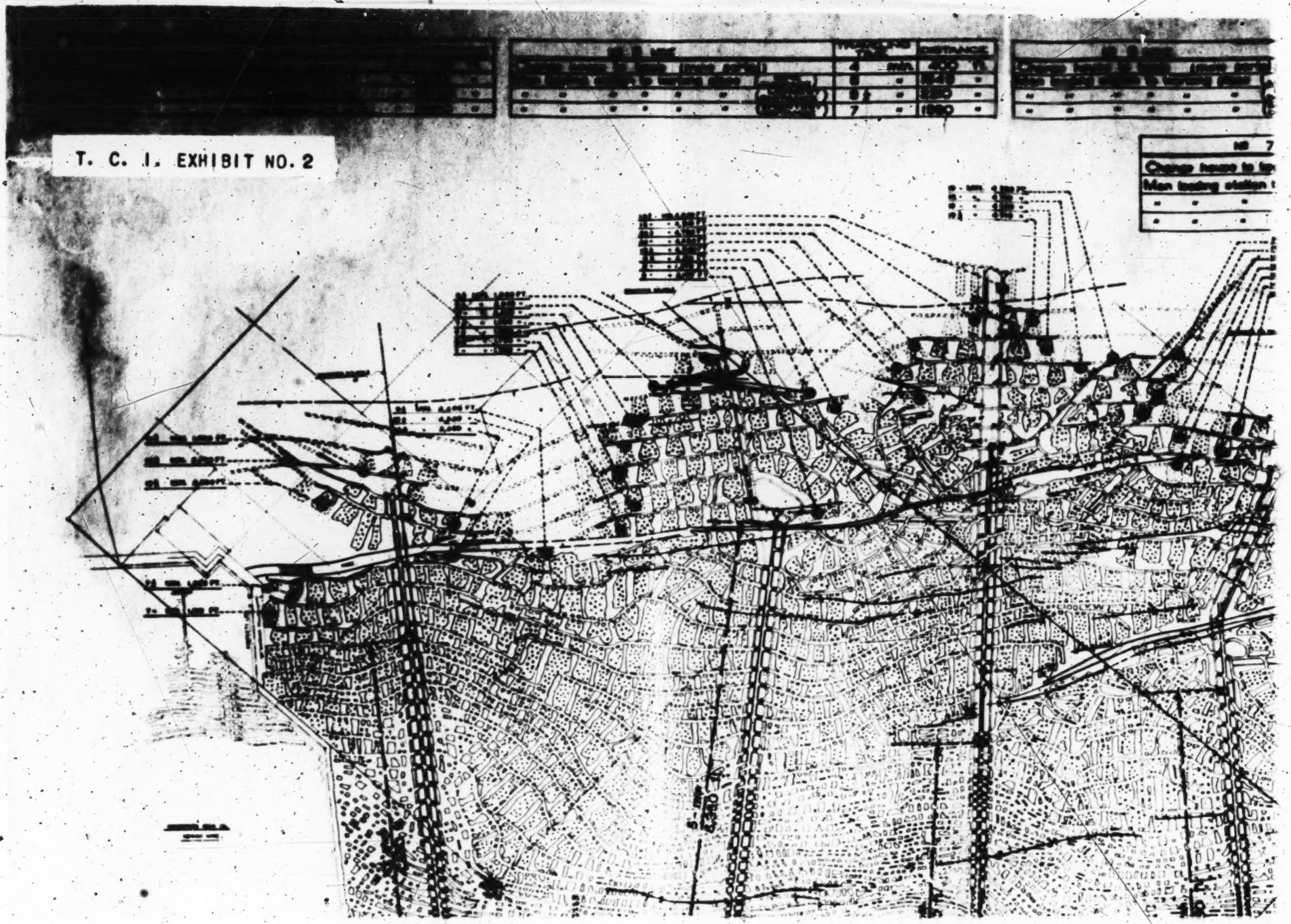
Change house to tipple (mine portal)			
Man loading station to working place	AVERAGE	18 "	3,841 ft
" " " " " "	LONGEST DISTANCE	20 "	4,600 "
" " " " " "	SHORTEST DISTANCE	11½ "	2800 "

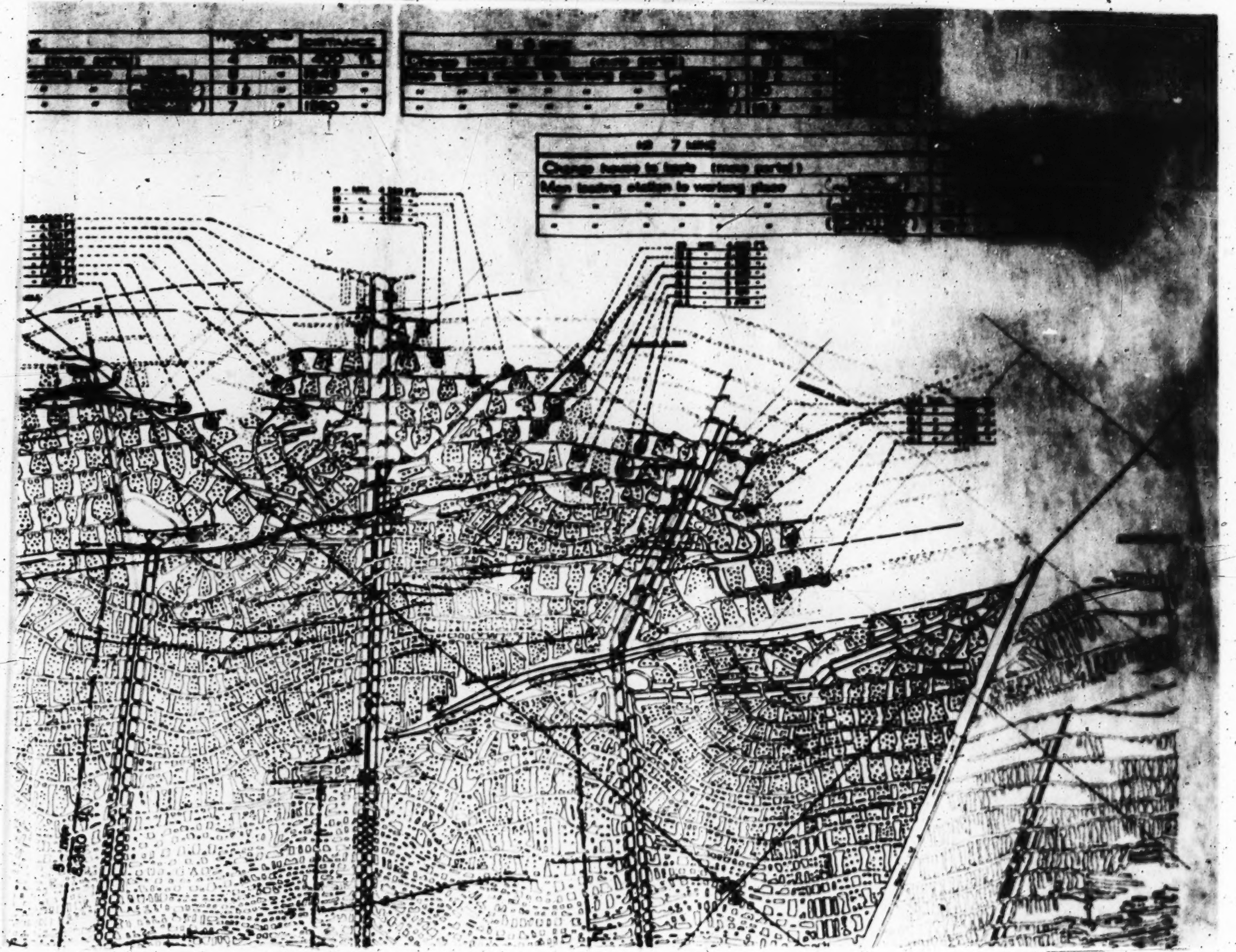
REPUBLIC IRON & STEEL CO

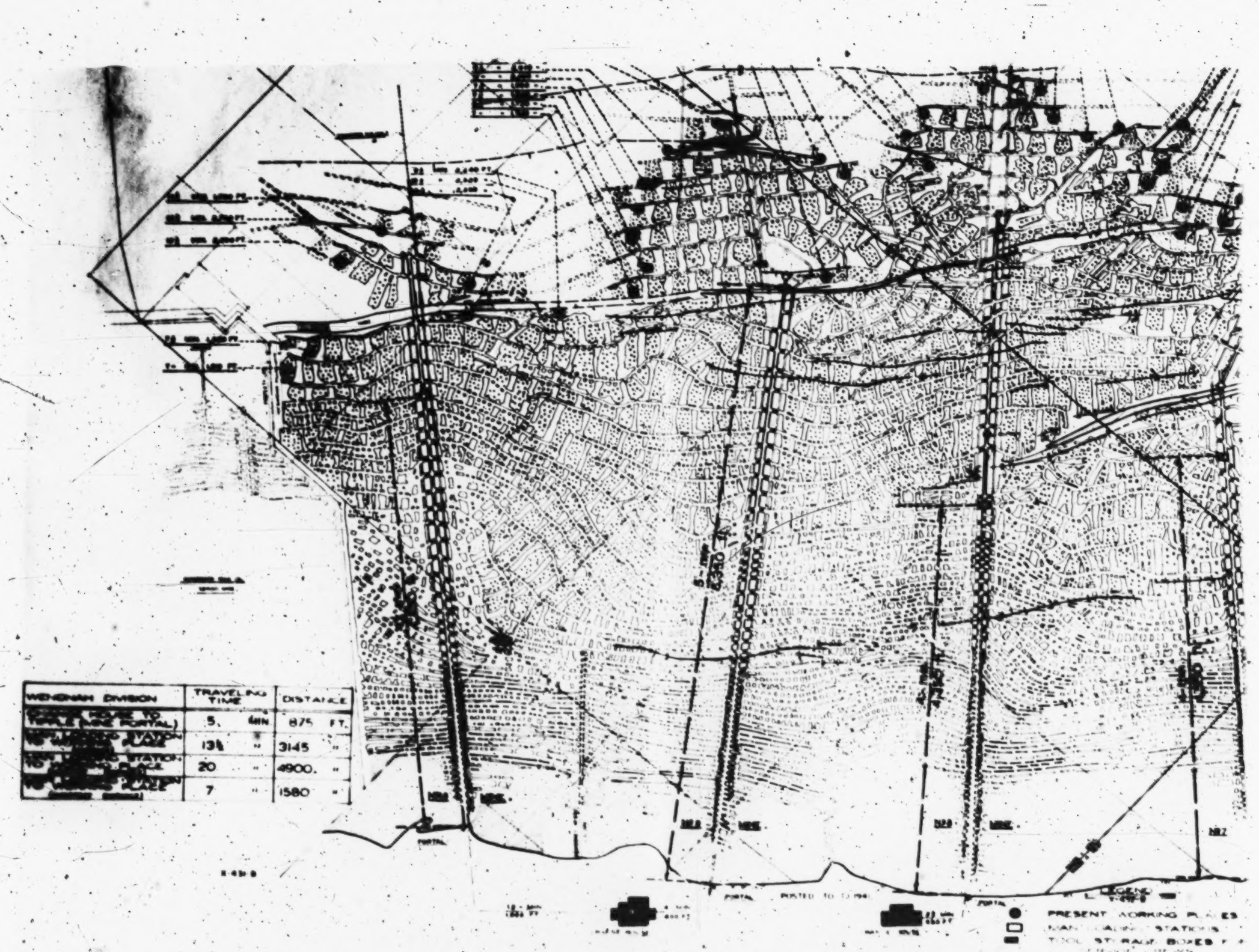

MUSCODA DIVISION
(Chemin faisant de la ligne (mine sectal)
Idem inverse (station la working place (extérieure)
6h min.
1485 ft.
3577 "
350 "
SLOPE
LEGEND


LEGEND

T. C. I. EXHIBIT NO. 2







WEIGHIN DIVISION	TRAVEL AND TIME		DISTANCE	
[illegible]	5.	MIN	875	FT.
[illegible]	13½	"	3145	"
[illegible]	20	"	4900.	"
[illegible]	7	"	1580	"

PRESENT WORKING PLACES

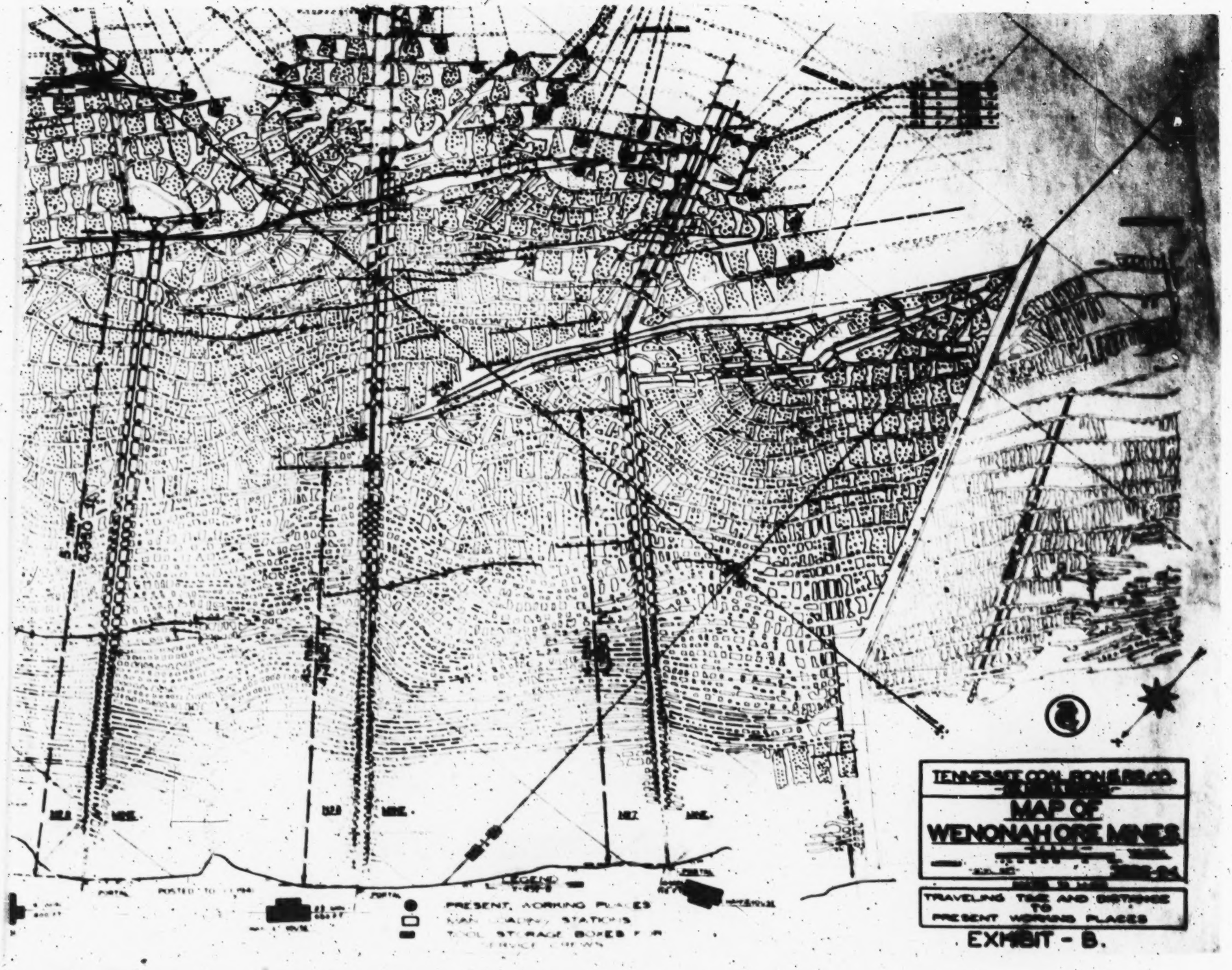
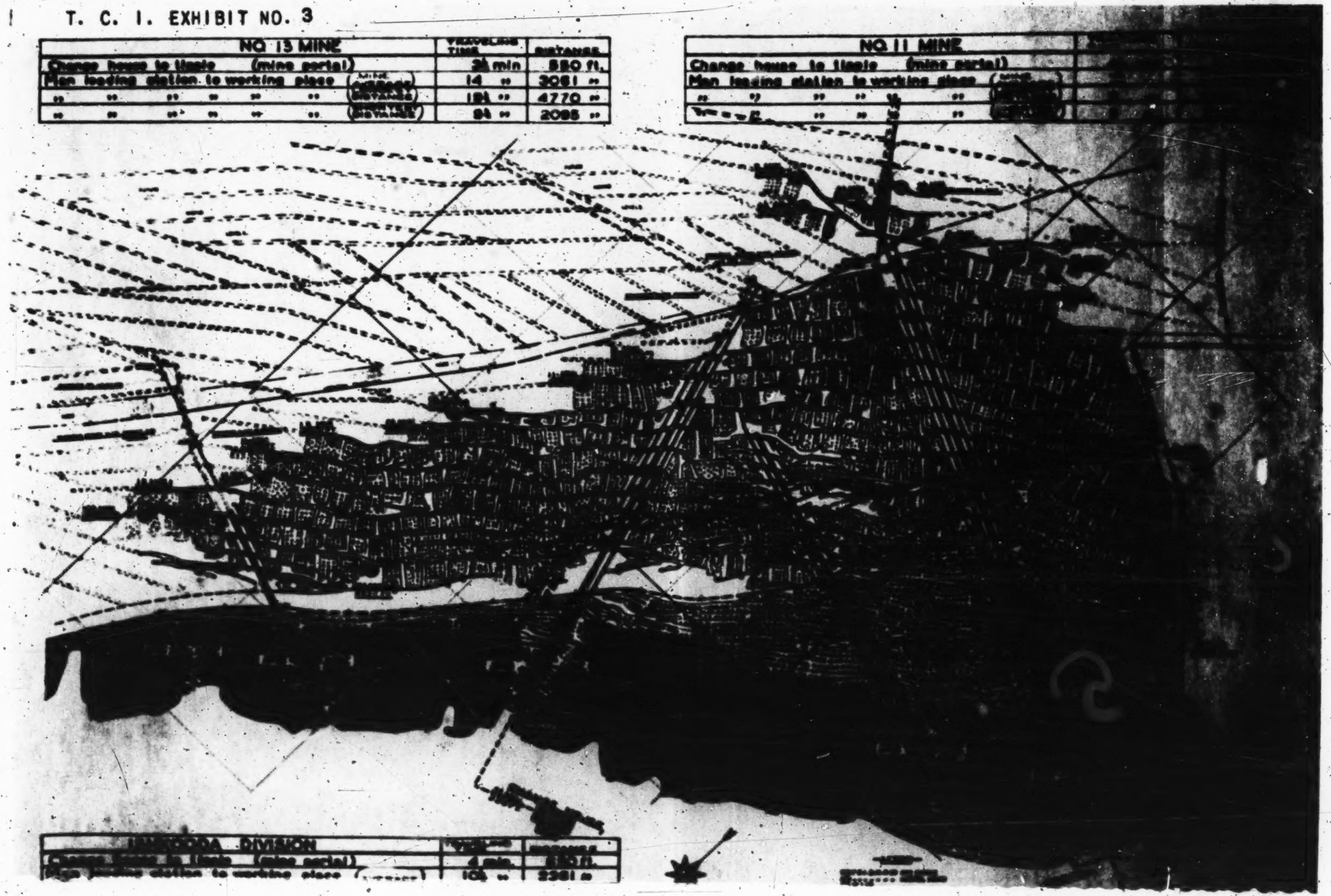

TENNESSEE COAL IRON & R.R. CO.
MAP OF
WENONAH ORE MINES
TRAVELING TIME AND DISTANCE
TO
PRESENT WORKING PLACES
LEGEND
PRESENT WORKING PLACES

EXHIBIT - B.

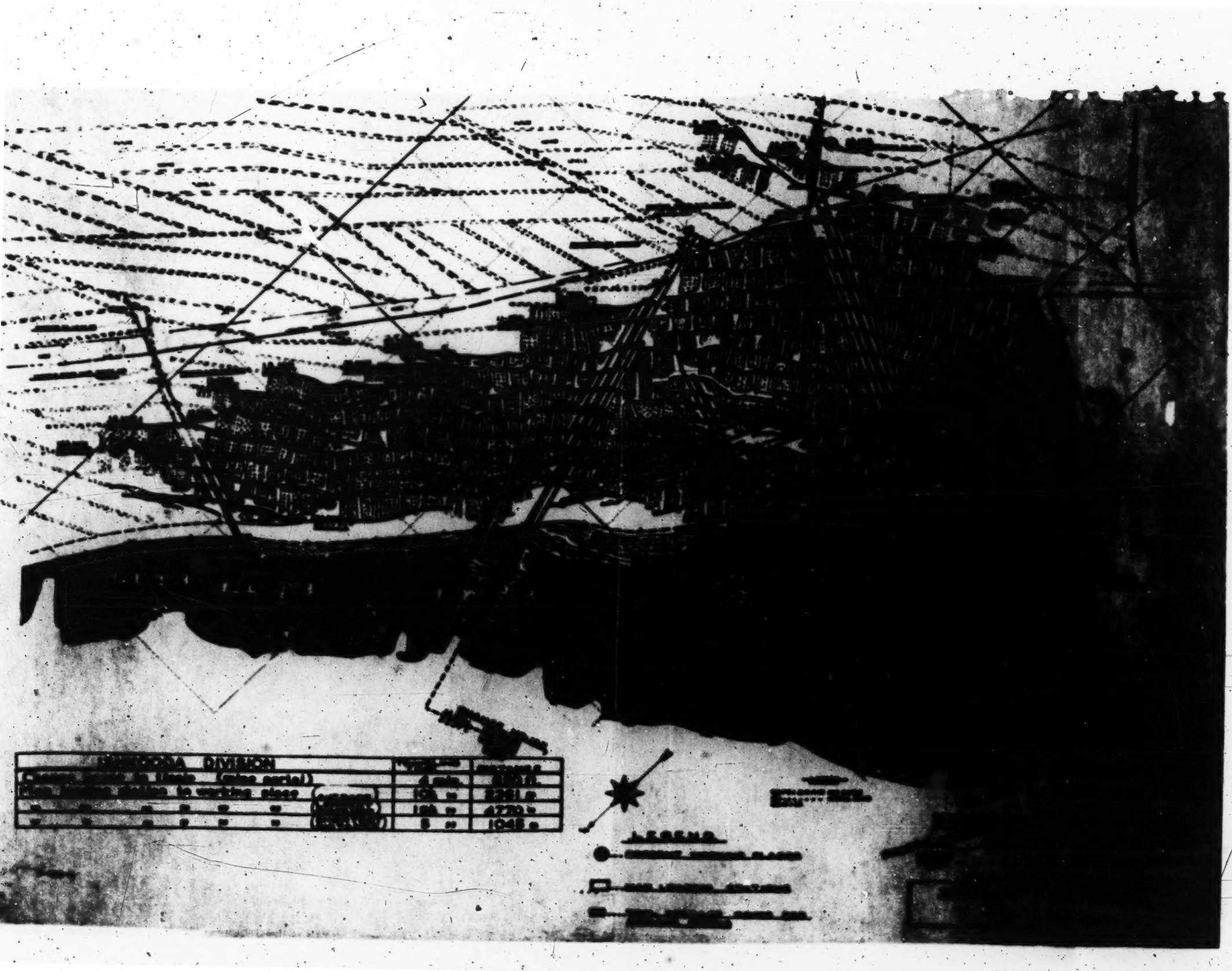
T. C. I. EXHIBIT NO. 3

NO. 13 MINE	TRAVELLING TIME	DISTANCE
Change house to Jingle (mine portal)	2½ min	550 ft.
Man loading station to working place (main entrance)	14 "	3061 "
" " " " " " (Eleventh Dip)	18½ "	4770 "
" " " " " " (Thirteenth Dip)	9½ "	2095 "

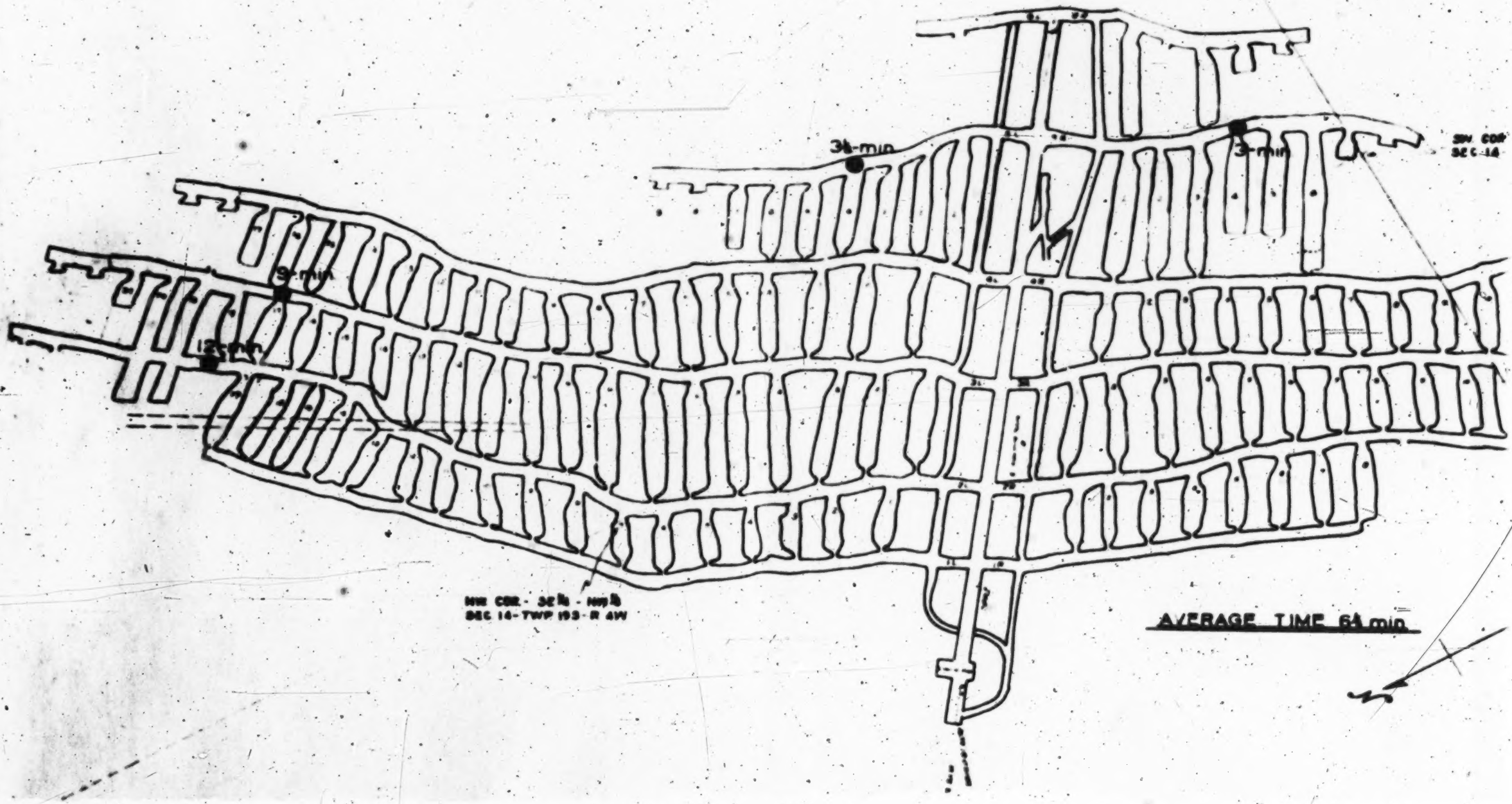
NO. 11 MINE		
Change house to Jingle (mine portal)		
Man loading station to working place (main entrance)		
" " " " " " (Eleventh Dip)		
" " " " " " (Thirteenth Dip)		

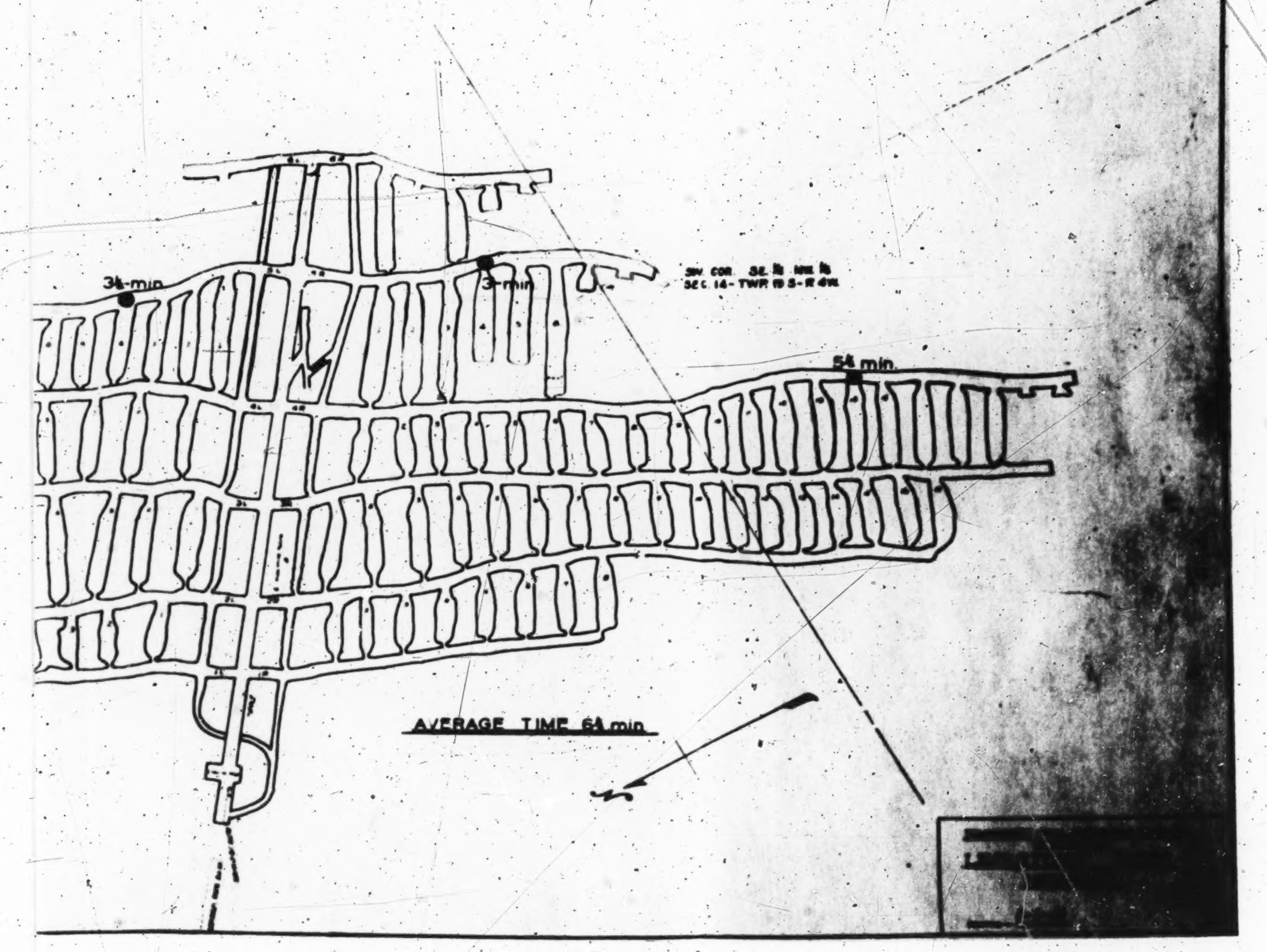


[illegible] DIVISION	[illegible]	[illegible]
(Change house to Jingle (mine portal)	4 min.	[illegible] ft.
Man loading station to working place (.....)	10½ "	2381 "


DIVISION
LEGEND

T. C. I. EXHIBIT NO. 4




3½-min
3-min
5½ min
AVERAGE TIME 6½ min

T. C. I. EXHIBIT No. 5.

Copy of Memorandum of Meeting Held in Office of President, October 19, 1933, with a Committee of Seven Men Purporting to Represent Certain Employees of the Ore Mining Division, Tennessee Coal, Iron & Railroad Company.

On October 19, 1933, a Committee of seven men called upon the President of this Company to present a number of requests as regards certain employees of the Ore Mining Division, together with a list of suggestions for consideration by the proper officers of the Company.

Investigation has been made in reference to the cases of the named employees, each of which is answered individually.

The list of suggestions presented by the Committee has been given full consideration and they are answered now in order:

1—Suggestion that the Company recognize the three locals as labor organizations.

We are aware of the existence of these various groups, in which may be found some of the employees of this Company; in the same spirit, we are aware of the existence of church groups of various denominations, of fraternal orders of different kinds and of other societies formed for a variety of purposes. Every citizen of the country has a right to belong to any of these, or not to belong as he may elect. It is not our particular concern whether he joins any such group or refrains from joining, so long as his work is performed in an efficient and capable manner.

2—Suggestion that wage discriminations among our employees be discontinued:

It has always been and will continue to be the policy of this Company to compensate its employees fairly for the work assigned to each employee. The wages paid by us have generally been at a higher rate than the prevailing scale in this district. This policy has permitted us to secure the type of employee best suited to our needs and has encouraged our men to perform their tasks in such a manner as to win promotion where available, with consequent improvement in their earnings. It is not our purpose to change this policy.

3—Suggestion that discharged employees be reinstated with full seniority rights:

It has never been the policy of the Company to discharge an employee except for good cause, such as violation of working or safety rules, inability to perform his assigned task properly and similar reasons, all of which are clearly recognized as being fair and sound. In times like the present, we have found it very difficult to give employment to those employees who are on our rolls and in good standing. It is certain that we cannot give work under these conditions to former employees who have been discharged for valid reasons, nor will we consider doing so until operations permit the active employment of all men now in good standing.

4—Suggestion that men enter the mines on their own time and come out on Company time:

5—Suggestion for an 8-hour day and 40-hour week and

6—Suggestion that rates of pay be increased accordingly.

These three suggestions are considered as one since they can be answered as such. The code adopted for coal mining is being followed very closely by this Company in connection with its ore mining operations and that code provides for 8 hours of work at the usual working place, exclusive of the lunch period, for a 40-hour week and for certain wage scales. While we do not propose the adoption of identical wage scales at the ore mines as those of coal mines, proper differentials are being maintained and adjustments have been made to insure a fair wage to each employee.

Having replied to each of the suggestions submitted, it remains now to make one further statement. In this present instance, the President of the Company has seen fit to receive a Committee from one of the operating divisions, contrary to the established procedure in such matters. Plans are now in force and have been for many years whereby any employee may present a suggestion or complaint to his Superintendent, who will give it due consideration. Having done so, the workman has the right of appeal to the General Superintendent, then to the Vice President in charge and finally to the President in any case where he feels an injustice has been done.

The workmen in every division have elected committees to present their cases for a fair hearing and the orderly procedure provides for full consideration of every case so presented. It is necessary that such suggestions or complaints that you have to make in the future be made in the regular order. The President will not be able to receive Committees such as this, except as he may deem it advisable, and then only after the regular procedure has been followed.

October 24, 1933.

3541 T. C. I. EXHIBIT No. 6.

Bessemer, Alabama, April 13th, 1934.

To: Tennessee Coal, Iron & Rail Road Company,
Attention: Mr. Robert R. Gregg, President.

In Re: Muscoda division, Wenonah Division and Ishkooda Division.

Gentlemen:

We, the duly chosen representatives of more than 90 per cent of your employees, who were working for you on the first day of April, 1934, submit the following demands in working agreements and wage scales:

First: That the Company recognize our Union and deal with our chosen representatives, as required by Section 7 and 7 (a) of the National Recovery Act.

Second: That the Union be recognized and the check-off system be given the employees, which system included the collection of dues collectively by the Company and paying same to the Financial Secretary. The Financial Secretary to send list of names in duplicate to pay master, and one list to be marked and returned to Financial Secretary of respective local. This list to be sent in for deduction from first pay day of month.

Third: That there be no discrimination or coercion against any employee for his activities and affiliations with the organization.

Fourth: That Union employees heretofore discharged and victimized be immediately reinstated with full seniority rights, and pay for time lost on account of their activities in our organization.

Fifth: That the company desist in attempting to compel by force, duress, threats and bribery to compel employees to join company union, or "Company Representative plan."

Sixth: That the write-up system be abolished, or when any member of the organization, or employee, having violated any safety rule, and being written up, shall have the right to appeal to the Shops Committee for investigation of said violation, and if not satisfied with the report of the Shops Committee, shall have the right to appeal to the State's Compliance Board, or, if he deems it necessary, the right to take his appeal to the National Labor Board.

Seventh: That the Company put any employee who has been laid off or discharged, back to work immediately, and give him preference over new men, and any employee, that has just grounds for thinking, or being convinced, that he has been demoted, shall be given a fair hearing, and if proven that he has been demoted, shall be put back to his former position.

Eighth: In view of the fact that the Company can force the men to enter and leave the mines at any time stated by the Company, we ask the right to enter on our own time and leave on the Company's time.

Ninth: In view of the fact that the National Recovery Act was passed for the purpose of employing more men and increasing the purchasing power, we ask for a 7 hour day, the maximum of 35 hours per week, time and one-half for all overtime, double time for Sunday, (except where continuous operation is necessary), and double time shall be paid for the following holidays; Fourth of July, Labor Day, Armistice Day and Christmas. And where there is the contract system no man shall be paid less than the minimum daily rate.

Tenth: And where the men work on tonnage or contract basis, that they shall have the right to designate the check weighman, he to be paid by the employees, and the right to ask for inspection of scales at any time, if they deem it necessary.

Eleventh: And in the event of slack time, that time among the various employees be equitably divided.

Twelfth: That all scrips and substitutes for money be made negotiable without discount.

Thirteenth: That the employees have the right to take any matter up with the company in regard to the doctor who is not giving satisfaction, and by solicitation and petition, shall submit to the company any fault which they might find with the doctor, as the employees pay the doctor. When an employee receives an defect caused by injury on job the company to reinstate him when he is discharged by company physicians. When company physician turns a man down he has right to go to private physician and if found sound and able to work the company is to reinstate said man.

Fourteenth: That periodical physical examination be abolished.

Fifteenth: Any employee required to do work for the Union, shall be granted leave of absence, and said employee to be reinstated with full seniority rights upon his return to work.

Sixteenth: That no employee be required to live in a company house, unless said employee chooses to.

Seventeenth: That no employee be required to trade in the company store.

Eighteenth: That a Union committee shall take up the investigation of any officer or discharged member of the organization, and, in the event that there is no settlement agreed to, they shall appeal it to the Industrial Arbitration Board for their investigation.

Nineteenth: Should any controversy arise which can not be straightened out by a committee designated by the Union, in conference with the Company officials, they shall set up an arbitration board consisting of two (2) men chosen by the Union; two (2) men chosen by the Company, and one man appointed by the Regional or National Labor Board. Each party having the right to appeal the findings of the Arbitration Board.

Twentieth: Should any man, living in a company house, be reasonably and justifiably discharged, or should quit the services of the company, that he shall be given a reasonable length of time to vacate said house, and, in the event of a strike or lock out, that employees living in company houses shall have the right to retain same until strike or lock out is adjusted satisfactory to both sides, and after adjustments and satisfactory agreements have been reached by the company and the employees, the employees shall be required to pay one-half of the rent they are in arrears.

Twenty-First: That the employers shall have the right to discharge any man for a justifiable cause, but the employee shall have the right to appeal his case to the Arbitration Board, and, in the event the Arbitration Board hands the decision in favor of the man, the company shall have the right to take it before the Regional Board, and, if necessary, the National Board.

Twenty-Second: Wage Scale: That the minimum rate of pay shall be, for outside common labor, $4.60 per day.

for inside common labor, $5.00 per day. And that the differential existing as of April 1st, 1934, between common labor and skilled labor shall be maintained as of this date.

Respectfully submitted, and in witness whereof, we hereunto subscribe our names as the chosen representatives of more than 90 per cent of your employees.

M. C. ANDERSON, #153
C. J. McDANIEL, #157
VAN D. JONES, #123
M. E. ADAMS, #123
MORRIS SMITH, 157
E. A. SISEMORE.

(Seal of I. U. M. M. & S. W. Bessemer District Smelters Council, Bessemer, Alabama.)

(Seal of I. U. M. M. & S. W. Muscoda Local No. 123, Bessemer, Ala.)

3545 T. C. I. EXHIBIT No. 7.

Memorandum of Replies Made to Proposals Submitted by Committee Composed of the Following Employees of Tennessee Coal, Iron & Railroad Company.

M. C. Anderson,
C. J. McDaniel,
Van D. Jones,
M. E. Adams,
Morris Smith,
E. A. Sisemore.

With reference to your proposals submitted to me on April 18th, 1934, it should be stated at the outset that until an Ore Mining Code is approved by the proper officials of

the Government and thus made effective generally, it is the purpose of this Company to continue its well-known policy of providing its Ore Mines employees with as much work as is possible at such rates of pay and such hours of work as in its judgment will be fair and reasonable. If, as and when the Ore Mining Code is approved and made effective, this Company will, of course, be governed by its provisions to the same extent as these may be legal and binding upon us.

Dealing with your proposals in order:

Items 1 and 2 ask that the Union be recognized by the Company. If it is intended that you are advising us of the existence of your Union, or any Union, we answer that we are aware of the existence of many Unions, among them being yours. If by this it is intended that we agree to deal with your Union, or any Union as such, we must answer that we will not do so. We have not failed nor will we fail to deal with committees of our employees or any representatives of our employees as such representatives. The Superintendents at our Ore Mines have met with every reputable committee asking for a meeting and will continue to do so. We have not extended any form of the so-called check-off to our Ore Mines or to our Manufacturing Divisions, nor is it our purpose to do so.

Items 3 and 4 relate to discrimination or coercion against any employee. Our supervising men are clothed with full authority to operate the various Departments of our Company, but they are instructed not to discriminate against any employee for his activity in connection with any organization. If any employee feels he has been unfairly treated for this or any other cause, his request for a hearing by his Superintendent will receive prompt attention and full consideration, as has been our consistent policy. It must not be overlooked, however, that the sole power of

employment, discharge or transfer for sufficient cause is vested in the management, and that right will not be relinquished.

Item 5 intimates that this Company has attempted to compel, coerce or even bribe employees to join in our Plan of Industrial Relations. This is so wide of the actual fact that it is not deserving of reply.

Item 6 has reference to one of our safety rules that has been so productive of carefulness and safe practice that we would be false to our responsibility to the families of our employees were we to fail to enforce it. If anything can be done to make for safety in our operations we propose to add to our rules in this respect rather than otherwise. Again, if any employee feels he has been treated unfairly, he may present his side of the matter to his superintendent where it will be fully considered.

Item 7 has been answered in paragraph above.

Item 8: When we changed the working time in the mines from ten hours to eight, we found that the average time spent at the face was about nine hours. We then adjusted the wage to equal nine hours pay for eight hours at the face or regular working place, so that we feel we have done all that you now request. There must be a regular starting time and quitting time for the orderly operation of the mine and we are convinced that our present policy is fair and proper.

Item 9: Unless and until it becomes a general practice in the Ore Mining Industry to observe any other than the eight hour day we expect to make no change in our hours of operation. Likewise, until such changes become generally established we expect to make no change in our long established policy of paying for time worked at the

regular rates of pay. We are careful now to prevent any overtime except in case of emergency and propose to adhere to this policy.

Item 10: This evidently was not intended for our consideration as we do not have a tonnage system of wages in our Ore Mines.

Item 11: Ever since the depression began we have endeavored to spread work among our employees in an equitable way. This policy will not be changed.

Item 12: This is a legal question and we propose to conduct our affairs in accordance with the law. Under the law of Alabama it is made a criminal offense for a Corporation to issue any paper to answer the purpose of money or for general circulation. This law is contained in Sections 3492 and 3493 of the Criminal Code of Alabama, which are as follows:

"3492. Emitting change bills as money.—Any officer or agent of any private corporation or association, or any other person, who makes, emits, signs, or countersigns, or causes or procures to be made, emitted, signed, or countersigned, without authority of law, any paper to answer the purpose of money, or for general circulation, must, on conviction, be fined not more than five hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the country, for not more than one year.

"3493. Circulating such change bills.—Any person who passes or circulates in this state any paper issued without authority of law, to answer the purpose of money, must, on conviction, be fined not less than twenty nor more than one hundred dollars."

Item 13: I have already pointed out that any employee has the right to present his case or complaint to his supervising officer where it will be given full consideration. This applies in the case of a doctor employed by the company.

It is true employeer do pay a nominal sum each month to receive medical and hospital service for themselves and their families, but these payments by employees do not cover the cost of such service. Moreover, each employee has a perfect right to use this service or not to use it just as he sees fit. If he does not want the service or is dissatisfied with it, he need only withdraw his written assignment covering these services. In other words, it is voluntary with each employee whether or not he uses this service.

We rely upon our medical staff for expert medical advice and shall continue to do so both for our protection and for that of our employees and their families. By reason of the fine staff of medical men in our Hospital who are furnished with the best equipment and who must pass upon the physical fitness of any injured man before he can return to work, we cannot agree to be governed by the opinion of any outside physician in this regard.

Item 14: This is not applicable to our Company and needs no reply.

Item 15: Any employee may be assured of a reasonable leave of absence for proper cause upon application to his superintendent. This has always been our policy and will continue. A question was raised by one of the committees as to what would be construed a reasonable length of time. It developed that what was wanted was one year or maybe more in case of certain men. My reply was that if a man wanted a year's absence to do work for which he would be

paid by some organization and not work for this Company, we could not consider him in the light of a regular employee and that he would not retain his rights with the Company. If he wanted several days or a week, or perhaps two weeks, upon proper request he could get it without difficulty and without loss of position.

Items 16 and 17 are not applicable to our Company.

Items 18 and 19: Again I state that any employee may take up with his supervising officer any question of supposed or actual unfair treatment. I go further and point out the procedure already adopted by the employees and approved by management.

1. Any matter which, in the opinion of any employee, or any group of employees, requires adjustment, and which such employee, or group of employees, has been unable to adjust, either directly or through his or their Representatives with the foreman of the work on which he or they are engaged, may be taken up by such employee, or group of employees, either in person or through any Representative of his or their Department in writing—

First—With the Superintendent concerned.

Second—With the Manager of Industrial Relations.

Third—With the Management,

and, lastly, with the President of the Company, and it is my thought that after getting this far a satisfactory settlement will be had of all cases arising.

Item 20 is a legal question. All we need say is that we have always tried to be sensible of what is fair and to be governed accordingly.

Item 21: See answer to 18 and 19.

Item 22: We have always paid as high if not higher wages than any Company in this District. We are now paying more than any Company mining ore on Red Mountain and have reached the limit of our ability to pay without bankruptcy. Only recently we agreed with our men on an adjustment which increased our ore mining payrolls about 10% and we can go no further in this respect at this time.

I only hope that business may improve to the point where we can begin to make back some of the millions we have lost in the past four years, and with the hearty cooperation of all our employees and associates this can be done.

April 20, 1934.

3551 T. C. I. EXHIBIT No. 8.

June 24, 1934.

Honorable Frances Perkins, Secretary of Labor,
Commissioner James Dewey,
Commissioner C. L. Richardson,
Birmingham, Alabama.

This is to confirm the understandings reached today at the conference between representatives of employees of our Ore Mines and the management, which was presided over by Commissioners Dewey and Richardson, regarding the position of this Company as to its ore mining operations. This is furnished to you as the representatives of the United States Government as a part of your record in this matter.

We are informed that the following named men have been chosen as a Committee to deal with the management on collective bargaining matters:

Geo. R. Coles, V. P. International.
V. C. Finch, Rep. A. F. L.
J. A. Lipscomb, Rep. Ore Miners.
C. L. Burchell, Sou. Rep. International.
Van D. Jones, Pres.
William Baylor, V. Pres.
M. E. Adams, Fin. Secy.
C. J. McDaniels, Pres.
Will Maham, V. Pres.
Morris Smith, Fin. Secy.
A. C. Cox, Rep.
M. C. Anderson, Pres.
Orange Wilson, V. Pres.
E. A. Sisemore, Fin. Secy.

We are entirely willing to deal with this Committee on matters of collective bargaining as they arise for all our Ore Mines employees as they may represent.

The employees at our Ore Mine have been free to join any organization they chose without prejudice or discrimination and this is the policy of our Company.

It is understood that the wage scale attached to this letter constitutes the rates to be paid by us for the various classifications as shown for the period of one year from this date.

Our men at each mine are free to select a committee to represent them in adjusting any grievance that may arise between them and the management which the employee himself cannot settle satisfactorily with his immediate supervisor. It is understood that such committee will not

take up any grievance with the management unless and until the employee has endeavored to adjust the matter himself.

If the Committee and the Foreman of the mine fail to adjust any grievance, the matter will then be taken up by the Committee with the Mine Superintendent. Failing to reach agreement in this event, it will be taken up with the General Superintendent of Ore Mines. If they should fail to agree, the matter may be submitted to arbitration, one arbitrator to be named by the Committee and one to be named by the management of the Company and these two may select a third.

It is understood that the management of the mines is vested exclusively in the Company and the duties of the mine committees shall be confined as above outlined.

It is understood that no such mine committee will interfere with the operations of the mine to enforce any purely local grievance until the full procedure of settlement has been followed.

The Company, of course, will be bound by all the terms and conditions of the Ore Mining Code when such Code has been adopted to the extent they apply to our operations in this District.

As a condition of the above understandings reached between the Committee and the management, it is understood the strike at all our Ore Mines is called off and that all men are to return to their former occupations without prejudice or discrimination.

Yours truly,

.....

President.

enc.

Tennessee Coal, Iron & Railroad Company

Ore Mines Division

Classification of Occupations

	Rate Per Hour	
	Present	Proposed
Division General:		
Camp Watchman	.515	.545
Watchman	.31	.36
Mine Messenger	.30	.35
Mechanical—General:		
Repairman	.37	.41
Extra Compressor Engineer	.43	.46
Locomotive Crane Engineer	.56	.59
Locomotive Crane Fireman	.375	.415
Boiler Cleaner	.375	.415
Boiler Cleaner	.33	.37
Locomotive Crane Helper	.30	.35
Machine Shop:		
Handyman	.515	.545
Machinist Helper	.48	.51
Machinist Helper	.435	.465
Machinist Helper	.43	.46
Machinist Helper	.405	.435
Apprentice	.51	.54
Shop Labor	.315	.365
Blacksmith Shop:		
Blacksmith	.54	.57
Drill Sharpener and Mule Shoer	.54	.57
Drill Sharpener	.54	.57
Tool Dresser	.54	.57
Blacksmith Helper	.41	.44

	Rate Per Hour	
	Present	Proposed
Carpenter Shop:		
Painter	.515	.545
Brickmason Helper	.315	.365
Electric Shop:		
Lineman	.495	.525
General Yard:		
Scraperman	.41	.44
Material Helper	.30	.35
Common Laborer	.30	.30
Teaming:		
Stableman	.39	.425
Truck Driver	.46	.49
Tractor Driver—2 Ton	.46	.49
Oil Wagon Driver	.37	.41
Teamster—2 Mule	.37	.41
Teamster Helper	.315	.365
Stable Cleaner	.30	.35
Miscellaneous:		
Pumper—Scotts Branch	.42	.45
Pumper—Graces	.405	.435
Dry House Fireman	.41	.44
Carbide Filler	.36	.40
Supply House Helper	.30	.35
Dry House Attendant	.30	.30
Inside Mine Operatives:		
Gas Man Helper—Limestone Mine	.42	.45
Powderman	.42	.45
Tallyman—9 hours	.42	.45
Material Foreman Helper	.395	.43

	Rate Per Hour	
	Present	Proposed
Timberman	.48	.51
Timberman Helper	.395	.43
Trackman	.50	.53
Trackman Helper	.395	.43
Sub-Station Tender	.46	.49
Electric Pumper	.445	.475
Electric Pumper	.43	.46
Pumper—Air	.41	.44
Motorman	.585	.615
Trip Rider	.495	.525
Boss Driver	.41	.44
Driver	.30	.35
Skip Tender—9 hours	.46	.49
Pocket man	.46	.49
Dump Man	.41	.44
U. G. Hoist Engineer #7-A Single Drum	.54	.57
Material and Man Hoist Engineer—9 Hrs. Limestone	.54	.57
Haulage Engineer	.40	.435
U. G. Mule Shoer	.54	.57
U. G. Stable Cleaner	.44	.47
U. G. Mine Labor	.375	.415
Underhand Stopes and Development:		
Drill Runner	.54	.57
Drill Helper	.44	.47
Mucker	.47	.50
Drag Operator	.54	.57
Haulage Engineer	.40	.435
Sinking Hoist Engineer	.40	.435
Pocket Man	.36	.40
Slate Dumper	.375	.415
Inside Mechanical and Electrical:		
Drag Repairman	.56	.59

	Rate Per Hour	
	Present	Proposed
Drag Repairman Helper	.42	.45
Car Repairman	.54	.57
Car Repairman Helper	.42	.45
Pipeman	.41	.44
U. G. Carpenter Helper	.395	.43
Sheave and Car Repairman	.41	.44
Motor Inspector Helper	.42	.45
Outside Mine Operatives:		
Compressor Engineer	.54	.57
Fan Man	.43	.46
Crusher Repairman	.445	.475
Crusher Repairman	.405	.435
Crusher Feeder	.38	.415
Bottom Crusherman	.38	.415
Crusher Helper	.30	.35
Steam:		
Head Fireman #13	.44	.47
Fireman	.41	.44
Boiler Cleaner	.375	.415
Ash Wheeler #13	.30	.35
Mechanical—General:		
Air Drill Repairman	.605	.635
Extra Hoist Engineer	.60	.63
Machine Shop:		
Machinist	.78	.81
Machinist	.74	.77
Machinist	.625	.655
Air Drill Repairman	.605	.635
Handyman	.57	.60

	Rate Per Hour	
	Present	Proposed
Blacksmith Shop:		
Blacksmith	.675	.705
Blacksmith	.655	.685
Tool Dresser	.675	.705
Carpenter Shop:		
Carpenter	.65	.655
Carpenter	.61	.64
Painter—Sub Foreman	.60	.60
Brickmason	.81	.84
Electric Shop:		
Shop Electrician	.66	.69
Electrician	.60	.63
General Yard:		
Steam Roller Engineer	.61	.61
Inside Mine Operatives:		
U. G. Hoist Engineer—Doublie Drum	.61	.64
Gas Man—Task—Limestone Mine	6.02	6.02
Inside Mechanical and Electrical:		
U. G. Carpenter	.60	.63
Motor Inspector	.655	.655
Mine Machinist	.665	.665
Outside Mine Operatives:		
O. S. Hoist Engineer #6	.66	.69
O. S. Hoist Engineer	.62	.65
Assistant O. S. Hoist Engineer #6 and 11	.60	.63
Electrician—Limestone	.60	.63
Section Foreman	.61	.64

3557 Birmingham, Ala., June 24, 1934.

Commissioner James Dewey,
Commissioner C. L. Richardson,
U. S. Department of Labor,
Birmingham, Ala.

Gentlemen:

This letter is to state the proposition of the employees of the Tennessee Coal, Iron & Rail Road Company, who are members of the International Union of Mine, Mill and Smelter Workers, and affiliate of the American Federation of Labor in regards to the proposal made to us through you to settle the present controversy at the Red Ore Mines of that Company, this is to advise that the following have been designated as the chosen representatives of the above referred to employees to deal with officers of the Company for the purpose of promulgating a working agreement between the Company and the employees, and the following are the chosen representatives.

Chosen Representatives.

Geo. R. Coles, V. P. International.
V. C. Finch, Rep. A. F. L.
J. A. Lipscomb, Rep. Ore Miners.
G. L. Burchell, Sou. Rep. International.

Muscoda #123.

Van D. Jones, Pres.
William Baylor, V. Pres.
M. E. Adams, Fin. Secy.

Wenonah #157.

C. J. McDaniels, Pres.
Will Maham, V. Pres.
Morris Smith, Fin. Secy.
A. C. Cox, Rep.

Ishkooda #153.

M. C. Anderson, Pres.
Orange Wilson, V. Pres.
E. A. Sisemore, Fin. Secy.

We are herewith submitting a list of rates of increases which we request be established for the classifications mentioned therein and designate same in four brackets: First bracket to include Dry House Attendants only, rate 30c per hour; second bracket to include a 7c raise per hour over the present rates of those employees now receiving from 30c to 42c per hour, both inclusive; third bracket to include a 5c raise per hour over the present rates of those employees now receiving from 43c to 54c per hour, both inclusive; the fourth bracket to include a 3c raise per hour for all of the other employees receiving from 55c per hour, and over.

This proposal is based upon the original classification submitted to you and affects skilled mechanics, journeymen and others, and we feel that this request is reasonable and fair and should be granted, and we are agreeable that the rates agreed upon shall continue in effect for one year from date, subject to any increase that may be established in the Iron Ore Code, when promulgated.

You will note that we are insisting on inclusion of certain classifications of mechanics and skilled workmen. We insist upon and request a clear understanding between the above mentioned committee and the Management, that they propose to continue to recognize the right of the

employees to organize in organizations of their own choosing, and bargain collectively through representatives of their own choosing, and we desire to have this incorporated in our working agreement.

The fifth paragraph of your letter proposes a set-up for handling grievances with the Company. We propose the following method of handling same, that in the event an adjustment cannot be made between the aggrieved party and the mine foreman, then that it be submitted to the Superintendent of the mine and our chosen mine or grievance committee, or their chosen representatives or their officers, and in the event satisfactory adjustment cannot be made, either party may appeal to a designated Board consisting of two members, one of whom shall be designated by us and one by the Company. Failing to agree they shall request the National Labor Board, or like Board, to select an umpire, or either party may require that the matter be submitted forthwith to said Labor Board.

We interpret the last paragraph of your letter, in which it is proposed that the Company guarantees to put into full force and effect, all the provisions of the Ore Mining Code when adopted, and that this will include Section 7-A of the N. I. R. A.

Yours respectfully,

GEORGE R. COLES,
(Geo. R. Coles)
As Vice-Pres. I. U. M. M. & S. W.

VAN D. JONES,
(Van D. Jones)
As Pres. Muscoda #123.

C. J. McDANIEL,
(C. J. McDaniel)
As Pres. Wenonah #157.

M. C. ANDERSON,
(M. C. Anderson)
As Pres. Ishkooda #153.

To: Mr. Dewey and Mr. Richardson.

Gentlemen:

Following is a proposed rates that the Executive Board of the Tennessee Co. employees are submitting for the Company's approval or rejection. We do not waive the rights on any of the other points that have been under discussion between employers and employees by submitting this proposed rates. We still believe that the other points are vital and are worth discussing even if the Company does agree to the following rates.

	Present Rate	Proposed Rate
Stopper section foreman	.61¢ hr.	.66¢ hr.
Drag operator (engineer)	.54 hr.	.59 hr.
Drill runner	.54 hr.	.59 hr.
Drill helper	.44 hr.	.52 hr.
Mucker	.44½ hr.	.52½ hr.
Carpenter helper	.40 hr.	.48 hr.
Powder man (magazine attendant)	.42 hr.	.50 hr.
Haulage engineer	.40 hr.	.48 hr.
Haulage Motorman	.58½ hr.	.62½ hr.
Trip rider (chainer)	.49½ hr.	.64½ hr.
Time taker	.54 hr.	.59 hr.
Carpenter	.59 hr.	.64 hr.
Motor inspector	.66 hr.	.71 hr.
Track man	.50 hr.	.58 hr.
Rotary dump man	.46 hr.	.51 hr.
Skip tender	.52¾ hr.	.56¾ hr.
Motor inspector helper	.42 hr.	.50 hr.
Mechanics	.54 hr.	.59 hr.
Mechanic Helper	.52 hr.	.50 hr.
Timber foreman (round)	.46 hr.	.54 hr.
Timber foreman (square)	.59 hr.	.64 hr.
Carpenter foreman	.59¾ hr.	.64¾ hr.
Slate dump foreman	.46 hr.	.52 hr.

	Present Rate	Proposed Rate
Slate dump helper	.38½ hr.	.45½ hr.
Hoist engineer	.61 hr.	.66 hr.
Material hoist engineer	.54 hr.	.59 hr.
Pipe men	.41½ hr.	.49½ hr.
(Outside) Hoist engineer (single drum)	.62½ hr.	.67½ hr.
Hoist engineer (double drum)	.66 hr.	.71 hr.
Assistant engineer	.60 hr.	.65 hr.
Compressor man	.54 hr.	.59 hr.
Machinist (first class)	.78 hr.	.83 hr.
Machinist (second class)	.58 hr.	.62 hr.
Machinist helpers	.30 hr.	.38 hr.
Blacksmith foreman	.54 hr.	.59 hr.
Helpers (blacksmith)	.42 hr.	.50 hr.
Welders	.72 hr.	.77 hr.
Steel sharpener foreman	.59 hr.	.64 hr.
Steel sharpener helper	.44 hr.	.52 hr.
Truck and tractor operator	.46 hr.	.54 hr.
Carpenter helper	.59 hr.	.64 hr.
Carpenter	.65 hr.	.70 hr.
Surface foreman	.44¾ hr.	.52 hr.
Drivers and teamsters	.28⅓ hr.	.35½ hr.
Night watchman	.32¼ hr.	.40¼ hr.
Fire boss	.75½ hr.	.80½ hr.
Helpers	.42½ hr.	.50½ hr.
Fan operator	.44 hr.	.52 hr.
Door man	.40 hr.	.48 hr.
Rotary dump helpers	.41 hr.	.49 hr.
Crusher man	.37 hr.	.45 hr.
Wash house attendant	.30 hr.	.30 hr.
Air compressor helper	elim.	
Outside electrician	.60½ hr.	.65½ hr.
Tally man	.46¼ hr.	.51¼ hr.
Drag engineer	.54 hr.	.59 hr.
Heading haulage motorman	.58½ hr.	.63½ hr.

	Present Rate	Proposed Rate
Dumpers	.46 hr.	.51 hr.
Pipe fitters	.37½ hr.	.45½ hr.
Pump man	.37½ hr.	.45½ hr.
Track foreman	.50 hr.	.55 hr.
Track helpers	.39½ hr.	.47½ hr.
Repairman	.54 hr.	.59 hr.
Repair helper	.39½ hr.	.47½ hr.
Tool house man	.39½ hr.	.47½ hr.
Powder man	.41½ hr.	.49½ hr.
Mule driver	.37½ hr.	.45½ hr.

3563 T. C. I. EXHIBIT 8-G.

Direction Carling Dinkler,
Dinkler Hotels Co. Inc. President & Gen. Mgr.

Tutwiler Hotel

500 Rooms and Baths—Radio in Every Room.

Under Same Management

Ansley Hotel, Atlanta, Ga.

Jefferson Davis, Montgovery, Ala.

Andrew Jackson, Nashville, Tenn.

St. Charles, New Orleans, La.

R. Burt Orndorff,
Manager.

Birmingham, Alabama.

1st. The strike at all mines of the T. C. I. is called off, and all there return to their former employment without prejudice or discrimination.

2. That a scale of wages attached hereto is to be the rate paid by the T. C. I. Company for one year.

3rd. No wage scale or rate of pay is to be used in this agreement for any person employed as a foreman, Pay Roll clerk, weighman or scientific research worker, mine engineers or any other person that engaged in the various positions that is commonly known as workmen at actual labor in or around the mines of the above co.

4. The co further agrees that the employees at each mine can select a committee to represent them in adjusting grievances that arise between the management and any employee that said employee can not settle satisfactorily himself. The committee will refuse to take up for adjustment any grievance for an employee until the employees has tried to adjust the same with his immediate superior.

If the committee and the General foreman of a mine fail to adjust the grievance the matter will again be taken up by the committee and the General Supt. of the Mine. If the General Supt. and the committee fail to reach an agreement the matter may be referred to arbitration, the committee selecting one man and the General Superintendent Selecting one man and these two men selected may select the third man to decide the matter, and his decision shall be final.

5. The duty's of committee shall be confined to the above only; and the Management of the Mine shall be vested exclusively in the Company and any committee interferring in any manner or calling of a strike to enforce a local demand may be discharged.

3565 TCI EXHIBIT No. 9.

Tennessee Coal, Iron & Railroad Company

Muscoda Division

Held in General Superintendent E. M. Ball's Office on June 13th, 1935.

Those present were:
Mr. E. M. Ball, General Superintendent,
Mr. A. W. Beck, Chief Engineer,
Mr. M. E. Baird, Gen. Supt's Clerk,

and the following Committee from the Red Mountain locals of the International Union of Mine, Mill & Smelter Workers:

Mr. Byrd Barksdale (w) (President, Muscoda Local #123).

Mr. Charlie McDaniel (w) (President, Wenonah Local #153).

Mr. M. C. Anderson (w) (President, Ishkooda Local #157).

Mr. Ed. Sizemore (w) (Secretary, Ishkooda Local #157).

Mr. M. E. Adams (w) (Secretary, Muscoda Local #123).

Bill Baylor (c) (Vice President, Muscoda Local #123).

Will Mahan (c) (Vice President, Wenonah Local #153).

Morris Smith (c) (Sec.-Treas., Wenonah Local, #153).

Orange Wilson (c) (Vice President, Ishkooda Local #157).

The meeting was called to order at 1:00 P. M. by Mr. E. M. Ball, General Superintendent.

Mr. Ball:
What have you today?

Mr. Barksdale:
Mr. Ball, we are here today to present a copy of a proposed contract. We would appreciate it if you would make the arrangements for negotiations.

Mr. Ball:
I do not have the authority to enter into any negotiations on hours, wages, working conditions, etc., but I will forward this contract in triplicate to our Management and will let you know what their reaction is as soon as possible.

Mr. Barksdale:
How long do you think that will be?

Mr. Ball:
I do not know, but I will advise you as soon as possible.

Mr. Barksdale:
I believe that is all for today, unless you have something to say.

Mr. Ball:
Yes, I would like to talk to you about the Group Insurance but we will not include that in the minutes of this meeting.

E. M. BALL,
Gen. Supt., Iron Mines &
Quarries.

3567 TCI EXHIBIT No. 9-A.

This Agreement made and entered into by and between the Tennessee Coal, Iron and Railroad Company, hereinafter called the Company, and the Muscoda Local Union No. 123, the Ishkooda Local Union No. 153 and the Wenonah Local Union No. 157, of the International Union of Mine, Mill and Smelter Workers, hereinafter called the Locals,

Witnesseth:

1. That the Company fully recognizes the Locals and through its properly accredited officers will meet and confer with the properly accredited officers and committees of the Locals upon all grievances and questions which may arise under this agreement.

2. Any controversy concerning hours, wages, and conditions of employment arising under this agreement between the Company and the Locals shall, if possible, be adjusted locally.

3. For the purpose of collective bargaining on matters of mutual interest including hours, wages, and conditions of employment or any grievances affecting their membership, the Locals shall select representative committees who shall be recognized by the accredited representatives of the Company as the proper medium through which the Company and the Locals are to negotiate.

(a) All grievances shall be settled within fifteen (15) days from date of first notice given by the grievance committees to the superintendent of their respective divisions.

(b) Any member having a grievance shall first discuss it thoroughly with his foreman, and an honest effort made to settle it.

(c). If the individual and foreman cannot agree on a satisfactory settlement, the member having the grievance shall report same to the grievance committee.

(d) The grievance committee shall make a detailed investigation of the grievance and decide whether or not it shall be handled further with the Company. If the grievance is to be handled further, then it must thereafter be handled as follows:

(e) The superintendent of the department in which the grievance arose shall be notified and the grievance shall be thoroughly discussed with him and every effort made to settle same.

(f) If a settlement with the superintendent cannot be made the grievance shall then be taken up and thoroughly discussed with the Manager or General Manager of the Company and an effort made to reach an amicable adjustment.

4. Until grievances have been handled exactly in accordance with this agreement there shall be no suspension of work by strike or lockout, and both parties shall endeavor in every way to reach an amicable adjustment.

5. The Company retains the right to discharge any employee, but upon request by the Local of which he is a member, the Company agrees to show cause for such discharge. If satisfactory cause cannot be shown, the discharged employee shall be reinstated and shall be paid for all time lost at his regular rate of pay.

6. In the event of the closing down of any one mine by the Company, and the employees are transferred to another mine, and equal distribution of time shall be made

among the employees and all foremen shall carry their own crew.

7. In case of curtailment or other reductions of the number of employees, whatsoever the cause, the Company agrees that the men shall be laid off in rotation in service, the seniors to be the last laid off and the last man laid off to be the first reemployed.

8. It is agreed that if for any cause there is a stoppage of production it shall be mutually agreed between the management and the representative committee of the employees as to the number of, and who shall be permitted to work as are required in connection with the operation of pumps and other equipment, or on such work as is necessary to protect the properties from damage or destruction. It is further agreed that no charges for house rent shall be made during the stoppage of production.

9. It is agreed that the employees shall enter the mines on their own time and come out on the Company's time.

10. Eight hours shall constitute a day's work, not to exceed forty (40) hours per week. Time worked in any day in addition to the regular hours per day shall be paid for at the rate of time and one-half. All Sunday work to be eliminated, insofar as possible, double time to be paid for all other work on Sundays and for the following holidays: Independence Day, Labor Day, Thanksgiving Day and Christmas Day, regularly employed operations and maintenance men, by mutual agreement, to be excepted.

11. The regular semi-monthly pay days now in force shall be continued.

12. It is further agreed that all employees coming under the jurisdiction of the Locals shall have checked off from

their wages any monies due the Locals for Initiations, Dues, Fines and or Assessments, the same to be paid monthly to the Financial Secretaries of the Locals on or before the tenth day of the month following such deductions.

13. There shall be no discriminations of any kind against any member of the Locals by Foremen, Superintendents, or any other persons in the employ of the Company.

14. Members of the Locals shall be granted leave of absence on Local business upon request. Any member who holds office or shall be elected to office in his respective Local, which requires his absence from the Company's service, shall upon retirement from such office be reinstated in his position with the Company without loss of seniority.

15. Effective June 25th, 1935, wages shall be increased ten per cent (10%) over and above rates now in effect.

16. It is agreed that the officers and committeemen of the Locals will use their best efforts at all times to see that members are conscientious and honest in all respects, and that they conduct themselves in such a manner as to clearly indicate that they have not only the interest of their fellow employees in mind, but, also the interest of the employer as well, because for employer and employee success it is necessary that there be the fullest cooperation between employer and employee at all times.

17. It is further agreed that this agreement supersedes any and all other agreements that have been signed mutually by each party herein named, and shall terminate one year from the date of signing, and is subject to change to conform to or with any National labor legislation passed during the life of this agreement.

In Witness Whereof, the parties hereto have executed this agreement on the ..... day of ..... 1935.

TENNESSEE COAL, IRON & RAILROAD COMPANY,
By .....
.....

MUSCODA LOCAL No. 123,
I. U. M. M. & S. W.,
By .....
.....
.....

ISHKOODA LOCAL No. 153,
I. U. M. M. & S. W.,
By .....
.....
.....

WENONAH LOCAL No. 157,
I. U. M. M. & S. W.,
By .....
.....
.....

3572 T. C. I. EXHIBIT No. 9-B.

June 24, 1935.

File 384.

Mr. Byrd Barksdale, President, Muscoda Local, I. U. M. M. & S. W., Muscoda, Alabama.

Mr. Charlie McDaniel, President, Wenonah Local, I. U. M. M. & S. W., Wenonah, Alabama.

Mr. M. C. Anderson, President, Ishkooda Local, I. U. M. M. & S. W., Ishkooda, Alabama.

Gentlemen:

In reply to your communication left with Mr. Ball June 13, 1935, and our subsequent conferences, I submit the following:

The Management reiterates its former statement of policy to the effect that it will receive and negotiate with the representatives of any organization, as such, as spokesmen for the employees they represent on any matters of wages, hours or working conditions.

Confronted with the present low operating schedule the Management cannot agree to any upward revision of wage rates at this time, and proposes that the arrangement outlined in the letter of the President of the Tennessee Coal, Iron and Railroad Company of June 25th, 1934, to the Honorable Secretary and Commissioners of the United States Department of Labor be continued in effect until such time as it is more definitely indicated that such an arrangement is no longer practicable.

At any such time, the Management is willing to negotiate with duly authorized representatives of the employees to accomplish any necessary revisions of the existing arrangement.

Yours truly,

.....

President.

Copy to—

Mr. A. E. Horn, President, District No. 5,
International Union of Mine, Mill & Smelter Workers,
Bessemer, Alabama.

3573 T. C. I. EXHIBIT No. 10 & REPUBLIC No. 7.

District 5 International Union of Mine, Mill and Smelter Workers

Affiliated With A. F. of L.

Offices: 1726½ Third Avenue

Phone 380

Officers:
A. E. Horn, President.
Frank Allen, Vice President.
C. L. Pegues, Secy-Treas.

Executive Board:
M. C. Anderson, Alabama.
M. Payne, Tennessee.
A. J. Watkins, North Carolina.
V. D. Jones, International Executive Board Member, Bessemer, Alabama.

Bessemer, Alabama, May 26, 1936.

Mr. E. M. Ball,
Gen'l Supt., Mines and Quarries,
Tennessee Coal, Iron & R. R. Co.,
Bessemer, Alabama.

Dear Sir:

On June 24th, 1936, the agreement between your employees, members of the International Union of Mine, Mill and Smelter Workers and the Company will expire.

In order that unnecessary delay or closing down of the mines with its resultant ill-feelings, hardship and expense be avoided we respectfully request that negotiations be-

tween representatives of your employees and their Company on the requests enclosed with this letter be entered into as soon as convenient to the Company.

Your employees are convinced that due to the understanding made possible by the contract now drawing to a close both the employer and employee have benefitted, especially so in this. Your employees under the contract have had at their command a representative to present their side in all major and minor controversies with the Company, thereby eliminating all possibility of misunderstanding and ill-feeling between the employee and his immediate supervisor.

Further, in presenting the requests listed in a separate letter enclosed with this communication we desire to state that they have only been arrived at after long and painstaking deliberations, excessive and exorbitant demands have been left out by the committee of your employees, duly elected by their fellow workers to form these requests.

Your employees are well aware that during the past five years the roads traveled by our company have been hard. We also know our corporation is an inanimate being, created by law, without a soul, incapable of suffering the privations of life, or having a wife and children to share their sufferings, which has been the bitter experience of your employees.

As employees, we feel that we should and are willing to share increasingly our responsibilities. As partners in the business, and we feel that we are, we know that unless our company prospers, the employee can't. If costs are excessive and there are no orders, mines and mills are idle. Knowing these things in the past we have made no demands for increased wages or changes in working hours of our company. We now feel conditions are better, earnings are increasing, dividends are slowly but surely mounting. In substantiation of these statements we quote no less an authority than our President, who recently said in

one of his radio talks. "We are now definitely on our road to better times". Prices have increased in the bare necessities of life, as well as steel and iron and coal. Our dollars will procure less and less as business improves. To meet the increase in the cost of living we are asking for a new contract, granting the following requests. I am

Sincerely yours,

A. E. HORN,

(A. E. Horn)

President, District 5 International Union of Mine, Mill and Smelter Workers

AEH/bac.

3575 TCI EXHIBIT No. 10-A.

Working Agreement Between the Tennessee Coal, Iron and Railroad Company and their Employees, Members of the International Union of Mine, Mill and Smelter Workers.

This agreement made and entered into this ..... day of ....., 1936, by and between the Tennessee Coal, Iron and Railroad Company of Jefferson County, in the State of Alabama, hereinafter called the Company and the Employees of the Tennessee Coal, Iron and Railroad Company, members of Local Unions Nos. 123, 153 and 157 of the International Union of Mine, Mill and Smelter Workers, employed at the Red Ore Mines of the Tennessee Coal, Iron and Railroad Company, located in Jefferson County, in the State of Alabama, hereinafter called the Employees.

Witnesseth: That

Your employees, members of Muscoda Local Union #123, Ishkooda Local Union No. 153 and Wenonah Local

Union No. 157, have chosen the undersigned officers or members of the International Union of Mine, Mill and Smelter Workers, District No. Five, to represent them in collective bargaining with the Company, and,

Whereas, the said Tennessee Coal, Iron and Railroad Company Locals Nos. 123, 153 and 157, through their Presidents and other representatives thereof and the International Union of Mine, Mill and Smelter Workers through its President and other International Officers and District 5, International Union of Mine, Mill and Smelter Workers through its President and other District Officers and representatives, being recognized as parties to this Agreement to the extent that they or said representatives or either of them shall now or hereafter represent the Employees of the Company at said Mines.

Now, therefore, This said Agreement entered into as of date hereinafter stated, between the Company and said representatives and other parties referred to hereinabove for and on account of the Employees at said mines (not excepted from the operation hereof) who have chosen or who may hereafter choose said representatives or parties or any of them for the purpose of collective bargaining with the Company, or who may ratify their action hereunder, which have been or shall be conclusively determined for the purpose of this Agreement by the execution of assignment of dues under other sections hereof.

Witnesseth, That the parties hereto mutually agree to and with each other as follows: That the Company has entered into this Agreement with the understanding that all similar agreements relating to wages, working conditions and hours throughout the Alabama field shall be on a uniform basis, subject only to such differences as may be required by conditions peculiar to different mines, and it is understood and agreed that if the International Union

of Mine, Mill and Smelter Workers through their representatives, negotiate an agreement relating to wages, working conditions and hours with any other company on a basis more favorable than the basis of this Agreement, this Agreement shall then be modified so that the Company signatory hereto will receive like benefits.

Representation.

The employees not now represented by said representatives may by written notice to the Company authorize said representatives to represent them in negotiations with representatives of the Company as to all matters arising under this contract.

Check Off.

Employees shall have the right upon written assignment by the Locals, to have dues not exceeding an amount predetermined by the Locals in lawful and regular session checked off the wages of such Employees. The amount shall be remitted to the person provided in the assignment, on or immediately following the date of the regular payday.

No assessments or dues other than provided in this section shall be checked off for the account of Tennessee Coal, Iron and Railroad Company Locals Nos. 123, 153 and 157, except upon authorization by the Executive Board of said Locals, except funeral and sick benefits may be checked off along with each months dues.

Initiation fees (not exceeding $10.00 for any one man, and in sums not to exceed $2.00 per man in any pay period), where proper written authorization has been made to the Company by the Employee, shall be deducted by the Company and remitted to the Financial

Secretary of Tennessee Coal, Iron and Railroad Company Locals Nos. 123, 153 and 157.

Maximum Hours.

An eight hour day and five day week, (40 hours per week) shall prevail, exclusive of the thirty minute lunch period, with option to run through without suspension, if agreed to between the Company and the Mine Committee.

The eight hour day means eight hours in or about the mines, at the usual working places for all classes of work, (other than those excepted from this Agreement), exclusive of the lunch period, whether they be paid by tonnage, except in case of accident, which temporarily necessitates longer hours for those Employees required on account thereof, and also except to those whose daily work includes the handling of man-trips and those who are required to remain on duty while men are entering and leaving the mines. The following Employees are excepted from the foregoing provisions as to maximum hours of work: All employees engaged in handling transportation of ore and men shall work additional time necessary to handle the man-trips or ore in transit, and shall be paid the regular hourly rate. A maximum of fifteen minutes after the quitting time of loaders shall be allowed for the handling of ore in transit. Overtime work shall be done to take care of accidents and to do other repair work necessary so that the machinery may operate on the following shifts; and also to do any emergency work to protect property and make the main haulageway safe. In doing this necessary emergency work employees are to receive time and one-half for all time worked in excess of eight hours in any one twenty-four hour period, this period extending from twelve midnight

to twelve midnight, with the exceptions as stated above, where mantrips and ore in transit is being handled.

For all work performed by Employees on Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, double the regular rates of pay shall be received, with the exception that necessary continuous occupational jobs, such as pumpers, will be paid in the usual manner.

The usual lunch period as hereintofore observed unless changed by mutual agreement is to be given.

Day wage men going into the mines in the morning shall be entitled to three hours pay whether or not the mines work three full hours but after the first three hours the men shall be paid for every hour thereafter, by the hour, for the hours worked or fractional part thereof.

Mine Committee.

A Mine Committee of three Employees shall be elected, each member of which shall be eligible to serve as a committee member only so long as he is employed at the mines, to represent the employees who are members of the Local Unions, the Committee to be properly certified to the Company by their Locals representatives. No meeting shall be held during working hours except by mutual agreement between the Mine Officials and the Mine Committee, nor shall members of a Mine Committee leave their working places except when called in by the Mine Officials, who shall, on request, permit the committee to look after the interest of the employees represented by them involved in any dispute.

Discharge Cases.

In cases of controversy regarding the justice of employer in discharging or suspending an employee, the case will be disposed of according to the manner and method as set out under the heading, "Settlement of Disputes". Should it be decided that an injustice has been done to the employee the Company will be obligated to reinstate and compensate the employee at a rate of pay based on the average earnings of his five immediately preceding full work days, prior to such discharge or suspension. Further, that such cases shall be taken up within three days from the date of discharge or suspension and disposed of as soon thereafter as possible and in any event not more than thirty days. The Company may employ the complainant during the time the hearing is in progress.

Settlement of Disputes.

In case of controversy arising between the Company or Employees as to the meaning or application of any of the provisions or terms of this Agreement, or as to matters not specifically mentioned in the Agreement, it is agreed that there shall be no suspension of work either by strike or lockout for a period of at least thirty days, during which time an honest and lawful effort will be made to settle such difficulty by the following procedure:

1. The complaining party taking his grievance up with the Local's pit committee who in turn in company with the complaining party presents it to the Mine Foreman.

2. The Superintendent of the Mines and the Mine Committee.

3. Through the Superintendent of the Mines and the representatives of District No. 5, I. U. M. M. & S. W., who have signed this Agreement or their representatives.

4. Through the Management or their representatives who have signed this Agreement and the representatives of District No. 5 of the I. U. M. M. & S. W., who have signed this Agreement on behalf of the Employees.

5. In case an agreement is not reached by negotiations through one of the four methods set out above, the controversy shall be arbitrated by a board of four members, two of whom shall be designated by the signers of this Agreement, representing the Management and two designated by the signers representing District No. 5, I. U. M. M. & S. W.

In case of a tie in this board the fourth shall select a fifth member who, after having all the facts placed before him, shall cast the deciding vote. In the event of failure to agree upon a fifth member the President of District No. 5 or his representative and the President of the Company or his representative shall agree upon a fifth member within five days. In the event they fail in this the Commissioner of the Department of Labor for Alabama, shall select the fifth member. All expenses incident to the services of the fifth member shall be paid equally by the Company and District No. 5. The decision of this arbitration board shall become a part of this Agreement continuing as such until its expiration.

Miscellaneous.

Payments shall be made semi-monthly in lawful money or par check at or near the location in which the employee works. The Company shall keep the working places as dry as possible; when wet places are driven the amount

of pay incidental to furnishing proper protection and inconvenience shall be agreed upon between the Mine Boss and the Employee affected.

When an employee has no work at the face and is given other labor he shall be paid at the scale for such labor.

A helper is an employee who works under the direction of a skilled man.

In the event of strikes or lockouts Employees request that they be permitted to place watchmen about the mines or workings in equal number with the regularly employed company watchmen, this to forestall, if possible, any damage or vandalism to company property as has been the case in past difficulties, in an effort to discredit your employees and their organization. In the event this is granted and the mines do not attempt to operate there will be no picketing on the part of your employees while on the contrary your property will be guarded with their lives.

In the case of shut-downs or the suspension of operations for a period of two weeks or more due to causes over which your employees have no power, house rent shall be reduced two-thirds the regular charged amount to the employee.

In the vent of shut-downs in which the Company supplies its employees with provisions and supplies at their company stores, on resumption of operations, the employee's wages shall be cut in payment for these supplies in the following manner:

Up to and including first forty hours current debts. After forty hours 15% of earnings applied to back debts.

In the event the employee desires to make a more substantial payment out of current earnings than at the rate above he may do so by voluntarily making a written assignment to the Company.

At least once each month employees are to be given a statement setting out the amounts paid and amounts due on back indebtedness.

The Company shall grant a general increase in wages of 10% to all Employees, plus equitable adjustments, in specific instances to be taken up at the time of negotiations on this Agreement.

The work day shall consist of eight hours in any twenty-four hour period, the time to run from midnight to midnight.

Time and one-half is to be paid for all overtime in excess of eight hours in any twenty-four hour period and double time for Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

In case of controversy neither party to the Agreement is to cause the cessation of operation for a period of at least thirty days, during which time negotiations shall be extended, with the exception that in the event either party, deliberately and knowingly violates this Agreement, the aggrieved party may consider this contract terminated.

Any and all monies due from employees to their Locals is to be deducted from the first half of the month earnings, with the exception that in case the employee only worked two full days the deductions is to be made from the second half earnings.

This Agreement is to terminate on ..... of ....., 1937.

For and in consideration of the above Agreement your Employees, members of Local Unions Nos. 123, 153 and 157 of the International Union of Mine, Mill and Smelter Workers bind themselves to in every way consistent with sound judgment, through their Locals and officials, faithfully carry out this Agreement.

In Witness Whereof, said parties have hereunto set their hands and seals this .... day of ....., 1936.

GENERAL COMMITTEE OF
LOCALS Nos. 123, 153, 157 of
I. U. M. M. & S. W.

By .....,
.....,
.....,
.....,
.....,
.....,
.....,
.....,
.....,
.....,
.....

TENNESSEE COAL, IRON &
R. R. CO.

By .....

3583 T. C. I. EXHIBIT No. 11.

Proposed Agreement.

In presenting a plan embodying the major principles of the so-called "Incentive Plan" to the Management of

the Tennessee Coal, Iron & Railroad Company by its employees, members of the International Union of Mine, Mill & Smelter Workers, District 5, Local Unions Nos. 123, 153 and 157 of the International Union of Mine, Mill & Smelter Workers, located in Jefferson County, Alabama, we quote the various headings and paragraphs followed by our comment. With this additional observation on the part of representatives of your Employees:

The so-called strike is in itself a deplorable thing, one that is to be avoided at any cost short of permanent forceful abandonment of one's democratic right of collective bargaining and organization. A right so ably used by our corporations, a right that was denied your Employees in the very incipiency of this discussion of the proposed incentive plan by your general superintendent at the mines, Mr. E. M. Ball, in these words, "At a meeting held in my office on March 13, 1936, I told you that we were considering an incentive plan for the employees of the iron mining division. I have asked you men here today to explain certain pasages of this plan to you. We will not enter into any discussion at this time; we will only explain any passage that you might not understand. After you have had time to study this plan you will probably want another meeting with me. When you are ready for the meeting, call me, and I will be glad to meet with you. Mr. Halfpenny will read the plan and if you have any questions to ask please raise your hand."

You will note from reading the above that the Employees were told they would not enter into any discussion at the time, but they would explain any passage that was not thoroughly understood and later told that the plan would go into effect regardless. As your employees understand collective bargaining it does not in-

clude a condition as described above when they are called in, told what they must do, or else.

The first paragraph embodied in the incentive plan is

During the past five years of bad business and low production the Tennessee Coal, Iron and Railroad Company has taken care of men on the payroll by sharing the work reasonably among its employees in the Ore Mines. This caused high labor costs for ore so produced and placed the Tennessee Coal, Iron and Railroad Company at a disadvantage in competing for business, so that the Company has operated at a loss during these years. In the opinion of the Management the time has now arrived to review this condition. Special studies have been made which show that by the application of a proper incentive plan of wage payment the difference between our competitors and ourselves in the market can be changed to our advantage. To insure success of the plan of this sort, entire cooperation between the Employees and the Management is essential.

We concur in your statement that the entire cooperation between the Employees and the Management is essential for the success of any plan or undertaking. But as pointed out above, your employees were not asked to cooperate. They were told to either concur in the Management's plan regardless or get out. Your employees know that ore costs are unnecessarily high, due not to a third shift, which we do honestly believe does not enter into this additional cost, but due to the causes which the Management is so free to admit in the second paragraph of the Incentive Plan headed "Present Conditions". And others, which we respectfully point out to our Management at this time. Paragraph two is well stated, and we, as Employees, are well aware of the fact that idleness, over which we have no control, such as waiting

for trams, and waiting for powder, enters materially into ore costs. In submitting these criticisms and suggestions as additions to your paragraph two we do this with no animosity or criticism of the Management nor do we do it with any intention or idea that it is our duty to in any way whatsoever enter into any part of the Management, but in a spirit of cooperation.

First we would call your attention to the fact that the survey made by the engineers in preparation for the drawing of the Incentive Plan, that studies were made only in the best working entries such as #11 mine at 62 right, which gives a picture not true of all working entries, in fact the picture is entirely too flattering and does not represent the true facts for the mines as a whole.

The idea suggested of drilling under a Head Miner is good. This will greatly improve production by eliminating unnecessary delays.

The proper handling of trams.

The lack of a split shift in all mines to handle material while the crews are out of the mines.

No mine supplies, such as skidder blocks, ropes and pipe fittings kept at convenient locations.

No large inside pocket in which to store ore at all mines.

Unfair to make comparisons of cost in various mines since conditions vary greatly in the mines as to equipment, method of handling and supervision.

#7 Mines will never be able to produce what it should as long as the inside hoist is not able to handle the ore, regardless of any number of men or shifts, that might be employed.

Numerous instances of bad or drummy roof caused by not timbering at the proper time.

Construction of side ramps that are too narrow to handle the work properly.

No convenient location of tool house, making tools easily accessible to the men.

If and when given the opportunity there are a great many other suggestions your Employees would be glad to make in order to reduce red ore costs. However, the reduction of men or the elimination of crews is not one of these suggestions, if the Company is sincere in wanting to reduce costs and produce greater tonnage.

Paragraph 3—"Increased Production".

Your employees feel that any increased production that will result by putting into force any or all of the above suggestions will result in a considerable saving. Not only in the actual mining of ore but in costs above, since these are stationary and depend entirely as to whether they are excessive or small on production.

Paragraph 4—"Standard of Production".

Your employees would prefer to discuss this question with the Management or its representative.

Paragraph 5—"Guarantee of Occupational Rates over each Payroll Period."

This paragraph should also have the benefit of an unbiased discussion of its problems. Particularly is this true since the Management is stressing the question of clean ore, which in itself can mean a cutting of production in half.

Paragraph 8—"Increased Orders".

This is a question of Management with the cooperation of the Employees in each individual department, a responsibility that your Employees at Red Ore is ready and willing to assume.

Paragraph 7—"Earnings under Incentive Plan".

Under this paragraph your Employees are requesting a flat 10% increase in pay for all employees, as well as those set out in the statements on pages A-1, A-2, A-3, A-4, A-5 and A-6.

Paragraph 8—"Section Crews".

Your employees request that an amended plan be tried out in a fair and honest way while the section crews stand as they are at present, however, re-arranging the work week in this manner. Crew #1 and Crew #2 work an entire week of five days or 40 hours. Crew #2 is off the next week permitting the Crew #1 and Crew #3 to work an entire week, to be followed in the succeeding week by Crew #2 and Crew #3. By altering the work week in this manner if there is any added cost due to the three crews it will be promptly brought out and at the same time the Company will have permitted one entire shift of its old and loyal employees to have at least earned sufficient money to procure the bare necessities of life. This we feel the Company is due its em-

ployees and in doing this will also be complying with the request of the President of these United States in giving all of those employment possible.

Paragraph 9—"Working Conditions".

The first paragraph under this heading will of necessity have to be altered.

The second paragraph is proper and as it should be.

No drag scrape or section crew except during emergency be permitted to start work before usual working time and must cease work at the regular quitting time.

Days work to consist of eight hours, 6:30 a. m. to 2:30 p. m. and 6:30 p. m. to 2:30 a. m. with no time off for lunch.

Paragraph 10—"Slate or Sandstone".

Acceptable without discussion.

Paragraph 11—"Records".

Acceptable without discussion.

Paragraph 12—"Weights".

Acceptable without discussion.

Paragraph 13—"Explosives".

Acceptable without discussion.

Paragraph 14—"Method of Figuring Production and Earnings".

This should read "at the end of each day period the production of the Head Miners, etc." Also the sentence "no changes shall be made in rates or allowances without approval of the General Superintendent" is not clearly understood.

Paragraph 15—"Store Checks and Cash Advances".

Head Miners and crew may draw store checks and obtain cash advances in accordance with present regulations, based upon their occupational rates. All clacker to be exchanged for cash if requested by those possessing the same between the first and third days of each month, on demand.

Paragraph 16—"Work to be done by Head Miner and Crews".

Acceptable without discussion.

Duties:

"Setting all necessary temporary timbers."

This has not been customary in the past and could only result in costly delays, by the men, when they should be producing ore. Other duties set out acceptable without discussion.

Paragraph 17—"Drag Operators".

Acceptable without discussion.

Paragraph 18—"Drill Runner".

Perform such other duties as may be assigned him by Head Miner.

(This to be discussed at meeting.)

Other duties as set out acceptable without discussion.

Paragraph 19—"Helpers".

Other duties as set out acceptable without discussion.

"Perform such other duties as may be assigned him by Head Miner."

(This will be discussed at the Employees conference.)

Paragraph 20—"Work to be done and Equipment Provided and Installations made by Company."

Company shall:

"Supply pump, air and discharge lines when necessary. Setting up and operation to be done by Head Miner and Crew." The first part of this paragraph is acceptable to the Employees but operating of the supply pump by the Head Miner and Crew would only result in unnecessary loss to the miners.

Helpers, drill runners and drag operators move equipment to working places and set up. (This to be discussed at meeting with your employees.)

"Do all timbering (Head Miner to set temporary timbers)".

Your miners feel that this should be left up to a skilled mine timbering crew, who are thoroughly equipped and are familiar with this line of work.

"Supply auxiliary hoist for pulling trams to side track".

(Head Miner and Crew to move and operate hoist as necessary.) Your employees feel that this should be left to a thorough discussion before a decision is made on the plan.

Paragraph 21—"Check-off".

Employees shall have the right upon written assignment by the Locals, to have dues not exceeding an amount predetermined by the Locals in lawful and regular session checked off the wages of such Employees. The amount shall be remitted to the person provided for in this agreement on or immediately following the date of the regular payday. No assessment or dues other than provided in this section shall be checked off for the amount of Tennessee, Iron and Railroad Company Locals, Nos. 123, 153 and 157, except upon authorization by the Executive Board of said Locals, except funeral and sick benefits may be checked off along with each months dues.

Initiation fees (not exceeding $10.00 for any one man, and in sums not to exceed $2.00 per man in any pay period), where proper written authorization has been made to the Company by the Employees, shall be deducted by the Company and remitted to the Financial Secretary of International Union of Mine, Mill and Smelter Workers Locals Nos. 123, 153 and 157.

Paragraph 22—"Employees Agreement".

Provisions of the proposed Employees Agreement relative to collective bargaining and other questions not embodied in the above Plan to be discussed formally at the time and place set out for the above meeting.

Definitions.

Your Employees feel that paragraph one should read "A fair days work". This is the daily production of an average section crew working in an average heading at the average rate of skilled miners with average allowance for personal necessities, fatigue, and general mining delays and conditions.

The second paragraph should read "Earnings"—ten per cent increase of the occupational rates and ten per cent increases to the expected rates as illustrated in Exhibits A-1 to A-6 inclusive. "Possible earnings—Under Best Conditions." No comment.

3591 T. C. I. EXHIBIT 12.

Tennessee Coal, Iron & Railroad Company,
Muscoda Division.

Minutes of Meeting.

Held in General Superintendent E. M. Ball's Office.

June 10, 1936.

Those present were:

Mr. E. M. Ball, General Superintendent, Mr. J. F. Vance, Manager of Industrial Relations, Mr. Ewing Carter, Superintendent, Muscoda, Mr. G. B. Neal, Superintendent, Wenonah, Mr. C. B. Cameron, Superintendent, Ishkooda, Mr. M. E. Baird, Gen. Supt., Clerk,

and the following Committee representing the members of the Red Mountain Locals of the International Union of Mine, Mill & Smelter Workers:

Mr. A. E. Horn, President District 5, Mr. Van Jones, International Representative, Mr. B. H. Barksdale, President Muscoda Local, Mr. C. J. McDaniel, President Wenonah Local, Mr. M. C. Anderson, President Ishkooda Local, Mr. M. E. Adams, Secretary Muscoda Local, Mr. Britt Lemley, Secretary Wenonah Local, Mr. Ed. Sizemore, Secretary Ishkooda Local, Frank Allen, (c) Vice President District 5, Bill Baylor, (c), Vice President Muscoda Local, Will Mahan, (c) Vice President Wenonah Local, Elmore Mitchell, (c), Vice President Ishkooda Local.

The meeting was called to order at 10:00 A. M., by Mr. E. M. Ball, General Superintendent.

Mr. Ball:

I have here the proposal which was presented to the Tennessee Coal, Iron & Railroad Company, and I believe the best procedure is to take it up paragraph by paragraph. Mr. Horn, have you a copy of the proposal with you?

Mr. Horn:

Yes, sir.

Mr. Ball:

The second paragraph which I will read, does not express all the facts in the case. "The so-called strike is in itself a deplorable thing, one that is to be avoided at any cost short of permanent forceful abandonment of one's democratic right of collective bargaining and organization. A right so ably used by our corporations, a right that was denied your Employees in the very incipiency of this discussion of the proposed Incentive Plan by your General Superintendent at the mines, Mr. E. M. Ball, in these words, 'At a meeting held in my office on March 13, 1936, I told you that we were considering an Incen-

tive Plan for the employees of the Iron Mining Division. I have asked you men here today to explain certain passages of this plan to you. We will not enter into any discussion at this time; we will only explain any passage that you might not understand. After you have had time to study this plan you will probably want another meeting with me. When you are ready for the meeting, call me, and I will be glad to meet with you. Mr. Halfpenny will read the plan and if you have any questions to ask please raise your hand.' You will note from the reading of the above that the Employees were told they would not enter into any discussion at the time, but they would explain any passages that was not thoroughly understood and later told that the plan would go into effect regardless. As your employees understand collective bargaining it does not include a condition as described above when they are called in, told what they must do, or else."

In your proposal, you failed to refer to the meeting that followed. In the first meeting, Mr. Halfpenny was present and I asked him to read the Plan. At that time I told you that this was not something that was thought up over night. I told you that this Plan had been worked out by myself and experienced Mining and Industrial Engineers and that we did not expect you to absorb all of the details of the plan at this meeting and therefore no discussion was necessary, but that we would read the Plan to you and explain and enlarge on what was set out in the Plan. That was the reason for the meeting. You will recall that no questions were asked. I also told you that we were holding meetings that same day with our Supervisory force, and our Section Foremen. On June 2nd, I received a letter from Mr. Horn asking me to clarify certain points, but the subject matter of my letter in answer to his letter is not in line with the statements made in your proposal. I wish to read the fifth paragraph of the proposal:

"We concur in your statement that the entire co-operation between the Employees and the Management is essential for the success of any plan or undertaking. But, as pointed out above, your employees were not asked to co-operate. They were told to either concur in the Management's plan regardless or get out. Your employees know that ore costs are unnecessarily high, due not to a third shift, which we do honestly believe does not enter into this additional cost, but due to causes which the Management is so free to admit in the second paragraph of the Incentive Plan headed "Present Conditions". And others, which we respectfully point out to our Management at this time. Paragraph two is well stated, and we, as Employees, are well aware of the fact that idleness, over which we have no control, such as waiting for trams, and waiting for powder, enters materially into ore costs. In submitting these criticisms and suggestions as additions to your paragraph two, we do this with no animosity or criticism of the Management nor do we do it with any intention or idea that it is our duty to in any way whatsoever enter into any part of the Management, but in a spirit of co-operation."

With reference to the statement "Your Employees were not asked to co-operate," which is a sentence in the above paragraph, is not a true statement. In the second meeting after which you had ten days to study the Plan, I felt that you had the opportunity to go over the Plan carefully, and after the explanations we had made in the first meeting, that you should be in a position to ask any questions about points that were not clear, but I received no answers to my query "Do you wish to ask any questions about the Plan". We did ask for your co-operation. You had ten days to go over the Plan and it appeared as though you had no interest in the matter. In addition, certain Section Foremen whom your

Committee represent, and who were at another meeting the same day when the Plan was explained to them, did not even take the trouble to explain the Plan to the men working in their headings. So, your statement that you were not asked for co-operation is not true. We did tell you at the second meeting that there was nothing else for us to do, and that the Incentive Plan would go into effect June 1st, but you were told this only after I received no answers to my several queries "Have you any questions to ask about the Plan". Is there anything you would like to say?

Mr. Horn:

The statements set out in your letter in answer to mine are the same as I remember them to have been made in the meetings you refer to; but as we had no copy of minutes, I wished to be sure of them. I may have misunderstood, or I may not have analyzed this correctly. I am presenting this to you as the men see it.

Mr. Ball:

After you received my letter I suppose you gave the correct information to the men.

Mr. Horn:

No, sir. Nothing has been done up to now. We only had our recollection of what happened. This Committee read your letter.

Mr. Ball:

I suppose I can assume that what is contained in this proposal is not in line with what you think now.

Mr. Horn:

This proposal was in process of being made when we received your letter. This proposal contains our understanding of what happened in the previous meetings.

Mr. Ball:

Then you know that some of the men are under the wrong impression.

Mr. Horn:

I read your letter to this Committee, but not to the men.

Mr. Ball:

The proposal reads: "First we would call to your attention the fact that the survey was made by the Engineers in preparation for the drawing of the Incentive Plan, that studies were made only in the best working entries such as No. 11 Mine at 62 right, which gives a picture not true of all working entries, in fact the picture is entirely too flattering and does not represent the true facts for the mine as a whole."

You men know that in an organization of this kind we keep a great many records, daily, semi-monthly, monthly, etc., and that we have these records covering many months and years. A study was made on the basis of these reports and we know what men are doing and have done in the past. As a check, a time study was made in several working levels. Results obtained by these time studies were checked with the records over a period of time and we know the basis as outlined in the Incentive Plan is correct and fair. You state in your proposal "The idea as suggested of drilling under a Head Miner is good. This will greatly improve production by eliminating unnecessary delays." There is nothing new in this, that is what we are doing at the present time, except that drillmen are drilling under Section Foremen's supervision. I am satisfied, as you are, that when delays are eliminated we will do better work. We can expect improvement in the handling of trams, even if it is necessary to put on a Trafficman. Your proposal states, "The

lack of a split shift in all mines to handle material while the crews are out of the mines." In reply, it is the duty of the Management to see that material is supplied to the working places. We do have split shifts at several of our mines for handling material. The handling of material into mines and to working places is a duty of Management. It is to our interest to keep enough material on hand for men to work with.

Mr. Jones:

To get myself clear, do you mean that the split shift distributes material to the working places.

Mr. Ball:

The material is put in the mine by the split shift and we are going to see that delays are reduced to a minimum.

Mr. Jones:

Then the split shift only handles the material to the timber tunnel.

Mr. Ball:

Material is handled by the Service Crew and charged to the company account. Your proposal goes to say, "No mine supplies, such as skidder blocks, ropes and pipe fittings kept at convenient locations." This is not true, as we have spare parts in the mine that can be obtained on short notice.

Mr. Horn:

If a rope breaks, or a block breaks, it is hard to get replacements.

Mr. Ball:

All headings have tool boxes, and we know that one crew hides equipment from the other crews. This will

be eliminated. You go on to say, "No large inside pocket in which to store ore at all mines." This had nothing to do with the working faces. Where it is necessary we have pockets, some are installed. We have pockets at No. 4, No. 6, No. 7 and No. 8 Mines. There will be one at No. 9 Mine and one is under construction at No. 11 Mine, and when we get to the limit of the surface hoist at No. 13, we will have one there. The Incentive Plan has nothing to do with the pockets, as all ore is brought to the pocket by Service men. You are probably thinking that there will be delays because of dumping. Getting the ore to the pocket is the duty of the Management and we will only use enough men at working faces to keep the haulage equipment up to capacity.

Mr. Horn:

We do not say that this is a handicap to the Incentive System. There are delays that are not under the control of the employees and we feel that they are now being passed on the employees. You spoke of the tool boxes, how long have they been there?

Mr. Ball:

For a number of years. In every working place there are points in the levels and on the rib where tools can be kept for both crews to use. The main supplies are explosives and these are issued from underground Powder Houses as needed. As for drill steel, hose pipe, etc., they should be kept in a convenient place in the heading where they could be found when needed.

Mr. Horn:

Do they have regular supplies, suppose a "T" breaks, or if a block is torn up, how much delay is caused because they do not have the spare parts?

Mr. Ball:

Very little. Spare parts can be obtained in a short time. Your proposal states, "Unfair to make comparisons of cost in various mines since conditions vary greatly in the mines as to equipment, method of handling and supervision." In my 30 years experience on Red Mountain I know that every heading goes through the same process. They go through the same cycle over a period of 3 or 4 months. In arriving at the basis of this Plan this was taken into consideration. I am trying to make these explanations as it is my belief that whoever wrote these proposals is not familiar with conditions in our mines. I agree that conditions vary as the method of handling. In No. 6 Mine, all ore is handled to the pocket by Electric Locomotives. The same applies in our No. 4 Mine. In No. 7 Mine some of the ore is handled by an Auxiliary Single Drum Electric Hoist at 103 Heading. The balance being handled by the Double Drum Electric Hoist, which is almost as large as our surface hoist at No. 6 Mine. The same applies at No. 8 Mine with this addition, we are now putting in another pocket and the ore will be brought to the pocket by Electric Locomotives the same as we are now doing at No. 6 Mine. In No. 9 Mine we will operate the same as at No. 6 Mine. In No. 11 Mine we are now putting in a pocket. Temporarily the ore is being handled the same as at No. 7 Mine, but later will be handled by locomotive haulage. In No. 13 Mine the ore is trammed to the slope and the empty cars returned by mule haulage. There is some difference in the method of handling the ore in each mine, but we can not do otherwise considering the contour of ore body, faults, etc. All equipment in working levels is the same, every level is equipped with a mechanical loader of our own design, the same type of air drills, all have five-ton tram cars, air and water lines are the same. Supervision in all mines are the same. Each working place has a Section Foreman, or a proposed Head Miner, each mine has a Mine

Foreman and Assistant Mine Foreman. Each mine has a Service Crew consisting of Timber and Track Crews. Are there any questions? (None asked.) The proposal goes on to say, "No. 7 Mine will never be able to produce what it should as long as the inside hoist is not able to handle the ore, regardless of any number of men or shifts, that might be employed." In reply, that is a very broad statement and shows ignorance of actual conditions. I assume you mean 103 Auxiliary Hoist. That is not the main part of the mine. The main part of the mine is served by the Double Drum Hoist. That ore will be handled over the double track slope. The next statement in your proposal, "Numerous instances of bad or drummy roof caused by not timbering at the proper time." In reply, heavy roof is in general caused by weight from overlying cover and the width of opening, you make in the ore seam. Character of roof such as sandstone or slates, also determine roof conditions. Where you have drummy top the Head Miner and the Drillmen are supplied with quarrying bars to take the top down. There are working places where we do not have 'bell' top, but is perfectly safe and it can be kept safe by using temporary and permanent timbers and keeping draw rock quarried down. The Management of the Mining Department of the Tennessee Coal, Iron & Railroad Company, has in the past and is now doing, provided a safe and proper pillar system for each of its iron mines. This is to prevent large ground movements, which might endanger several working places at once. This Company has been very particular to see that proper pillars are left by only taking a certain per cent of the ore on the first mining. We drive our main entries 20 to 22 feet wide and about 220 feet apart. We leave pillars at proper intervals to take care of overlying weight. We have a system where you can not mine certain ore and you must leave certain pillars. All this is so that we will not get a large ground movement, and if you men will use quar-

rying bars in your working places, you will be in no danger from heavy falls of ground. Proper timbering is essential, but that comes under the duties of Management. We are interested in not having to handle unnecessary top rock.

Mr. Horn:

I think the idea is that some places are not timbered at the right time and then the top comes down.

Mr. Ball:

When any hole is made in the ground, Old Mother Nature tries to fill it up. That is what we have Service Timber Crews for, to help hold the top between pillars.

Mr. Horn:

We think these delays are being passed on the men.

Mr. Ball:

That is not true.

Mr. Horn:

We understood that these things are functions of the Management, but the men are being made to pay for them.

Mr. Ball:

That is not true. The T. C. I. & R. R. Co. has always been fair to their men, provided good wages, the best working conditions that can be provided and proper tools to work with, and done numerous other things to help their employees.

Mr. Horn:

They never had a Plan like this before either.

Mr. Ball:

No, they never had any as good as this. We told you before that we realized we had a duty to perform and you men must take our word for what we say. We realize we can not get ore from working places unless we give service to those employee in working places.

Mr. Horn:

I know of one case on the Mountain where a crew was on a tonnage basis. Their task was 35 tons and over that they got a bonus. As soon as they got their production over 35 tons and were making a little money, their base was raised to 42 tons. Do you wonder why these men ask questions?

Mr. Ball:

I made the statement, and it is quite clear in the Plan, that these rates will not be changed.

Mr. Horn:

But you have left a gap there.

Mr. Ball:

I said the only rate that would be changed would be the powder rate, and that if the cost of powder went up or down. We know the men can make money and as we said here before, if the men make 100% we would be glad of it.

Mr. Horn:

I am trying to show you how the men look at it.

Mr. Ball:

That is alright. Now you say here, "Side ramps are too narrow to handle the work properly." We feel that these ramps are large enough. If the Head Miner feels

that he can increase production by using a wider ramp, we would be glad to make it larger.

Mr. Jones:

I have seen ramps so narrow that a buzzard could not roost on it, must less run ore over.

Mr. Anderson:

There are some ramps at Ishkooda that are so small that the ore runs over on the track.

Mr. Ball:

That is easily remedied by moving the track, or moving the ramp. If the chutes are not right, we can easily fix that.

Mr. Barksdale:

We are talking about what has happened in the past. I have worked in places where the chutes have not been right and we have worked the place out without getting them fixed right.

Mr. Ball:

The Company realizes that they have certain duties to perform. We will be glad to do this because it will increase production and get better costs.

The next item in the proposal is, "No convenient location of tool house, making tools easily accessible to the men." We have already gone into that. We have tool houses underground at all times.

Mr. McDaniel:

There has been times when we would need a fitting and it would not be in the tool house in the mine and they would not have it outside. This causes a big delay.

Mr. Ball:

That may have been true in a few cases, but most of the time we have it on hand when needed. It is our duty to see that supplies are furnished. Your proposal goes on to say:

"If and when given the opportunity there are a great many other suggestions your Employees would be glad to make in order to reduce red ore costs. However, the reduction of men or the elimination of crews is not one of these suggestions, if the Company is sincere in wanting to reduce costs and produce greater tonnages."

You men all know that we have had Suggestion Boxes at our works for a number of years. We give prizes to those Suggestions that are of value. Some of our employees have gotten nice awards for suggestions they have made and we welcome suggestions from all employees. We will be glad to hear what you have on your mind. These Committees have been told a great many times, we welcome suggestions from our employees.

Mr. Horn:

We will leave that open and will talk about that later.

Mr. Ball:

The next item is *Standard of Production*. "Your employees would prefer to discuss this question with the Management or its Representatives." What have you to say on this?

Mr. Horn:

We would like to be excused a few minutes. (Gone 10 minutes.)

Mr. Ball:

Before proceeding, I wish to state very emphatically that the Management realize they are under certain obligations, and the Management assumes the responsibility to see that delays are reduced to a minimum, and if you have the idea in your mind, that we are not going to do that, get rid of it. Remember that it is to our interest to see that all delays are reduced as much as possible.

Mr. Horn:

There is some misunderstanding about figuring the production. If the Head Miner has to keep his average up to the mine average, he can not make it. There are a number of places that can not come up to the mine average. You state here that the bonus starts on 80% efficiency, leaving the impression that the bonus starts at 20% less than what they are doing now. Then you cut off two men from the crew, which would more than take up that 20%.

Mr. Ball:

All places go through the same cycle. In nearly every heading there are three places to drill and you will get more drilling.

Mr. Horn:

The contention is that the men can not make the bonus with seven men. We would like to come back here later and tell you the places where the men can not make the bonus.

Mr. Ball:

We know that it can be done on the basis of our studies and it will remain as it is. You have three places to drill in and there is not a Head Miner or a Drillman on Red Mountain that can not break 5-½ feet in a 22 foot

place. That would mean between 110 and 120 tons of ore.

Mr. Horn:

If all of the working places go through the same cycle, why have you changed some of the men around and given certain men places where they can make money?

Mr. Ball:

All places will make money during the cycle.

Mr. Jones:

I know that one Drillman drilled five shifts in a place and only broke 17 cars. I have also seen extra Drillmen put in a place and only break 20 cars after drilling a week.

Mr. Ball:

We did have a lot of inefficient men.

Mr. Jones:

It is not shown that this Plan will increase efficiency.

Mr. Ball:

How do you know? You haven't tried it as yet.

Mr. Barksdale:

I have worked in places where the heading was good all the way and in others where they were bad all the way. This was due to the top. In the 1st Left North and Auxiliary in No. 6 Mine, we had good top. In the East Haulage the top is bad. There is no way for them to load ore like the 1st Left North and the Auxiliary.

Mr. Ball:

In most cases the bad top is caused by bad drilling. It is a question of spacing the holes. Under this system

the Drillman will be more careful. It would be very nice if we had good top and good conditions in all places, but our experience teaches us that all levels go through the same cycle. Another thing is that you will find that the Drillmen will not begin tearing down at 1:30, but will be anxious to get the tonnage.

Mr. McDaniel:

Certain men were given the best headings. I know men that were taken out of good places and told to go to other places not so good. I was in a good place and I was taken out and told to go to another place.

Mr. Ball:

These same men will probably kick when they have to go through the bad part of the cycle.

Mr. Barksdale:

In that case the men doing the hardest work will be getting the least pay.

Mr. Ball:

Every heading will probably have to move the same amount of slate during the cycle.

Mr. Horn:

Let's pass that over for the present.

Mr. Ball:

The next item in the proposal is, "Guarantee of Occupational Rates over each Payroll period." You mention here, "This paragraph should also have the benefit of an unbiased discussion of its problem. Particularly is this true since the Management is stressing the question of clean ore, which in itself can mean a cutting of production in half."

Mr. Horn:

We know that you can not get clean ore as long as you are using mechanical loaders, unless the ore is hand picked. If a man gets a good heading and begins to make money then you might say the ore is not clean and he will not get the bonus.

Mr. Ball:

I don't think you need worry about that. As long as the analysis remains the same as it is now, we will be satisfied.

Mr. Horn:

We know there is going to be slate in the ore.

Mr. Ball:

Certainly, there will be small pieces, but we want the big pieces kept out of the cars. We are not going to stand for cars half loaded with slate and sandrock.

Mr. Horn:

That is one question we want cleared up. If that section is properly worded we can talk "turkey."

Mr. Ball:

You men know what we mean by that paragraph. We will not tolerate cars loaded with slate and sandrock.

Mr. Horn:

That just leaves a loophole for someone to be discharged for loading slate. If you wished to discharge one of my Presidents you could do it because he loaded slate.

Mr. Vance:

How would you word that paragraph, Mr. Horn?

Mr. Horn:

To make it clear, that all that is expected is what they are doing now.

Mr. Jones:

This analysis is all "hoey" anyhow.

Mr. Ball:

It is not all "hoey." The furnaces are charged on the analysis of the ore.

Mr. Jones:

I have seen slate and sandrock loaded and it did not run the analysis up.

Mr. Ball:

It did run the analysis up.

Mr. Jones:

I remember one time when Mr. Cross was Superintendent he put on slate pickers and we picked every rock that was loaded and the next day the worst analysis we ever had.

Mr. Ball:

We know what causes the acid in the ore. It is the slate and sandrock. The local Management will be able to tell when the slate and sandrock is being loaded, by a simple inspection of the working places and noting where there are no gob piles when draw rock is coming in working place.

Mr. Jones:

Your statement that the ore must be free of slate and rock is wrong, it can not be done.

Mr. Ball:

I think you are carrying this to an extreme. You men know what is meant by clean ore.

Mr. Barksdale:

At one time here we were told that if the analysis did not come down the mine would be shut down. We picked the ore and still it did not come down.

Mr. Ball:

We know that the crew can not keep out the very fine pieces of slate and sandstone. We want the big pieces kept out and that can be done.

Mr. Horn:

Don't you think this should be cleared up?

Mr. Ball:

I think it is clear now. After all is said—it is up to the local management to see that clean ore is mined. There is nothing new to this. At present men are subject to discipline and discharge for loading slate and sandrock.

Mr. Horn:

I know that the Company has some smart men, and if a word or two added to this paragraph would clear the matter up, and they do not do it, then it has been left this way for a purpose.

Mr. Ball:

The Mine Foremen and the Assistant Mine Foremen are responsible for the loading of clean ore. The local Management will also have other ore inspectors.

Mr. Horn:

Yes, sir, and this statement says load clean ore.

Mr. Ball:
They have been loading clean ore in the past.

Mr. Horn:
It is not a question of the past. What is the purpose of this statement?

Mr. Vance:
Then you think it is a question of the honesty of the Management?

Mr. Horn:
It is not a question of honesty of the Management. This says "clean ore" and I think that statement can be used for discrimination.

Mr. Ball:
If I were in the Mine and I found a few small pieces of slate in the ore I would not call that dirty ore, but if I found the car half full of slate covered with ore I would call that unclean ore.

Mr. Horn:
It could still be used to discriminate against certain men.

Mr. Vance:
Is that not an assumption, Mr. Horn?

Mr. Horn:
Yes, sir.

Mr. Vance:
The basis of this discussion must be reached on an honest and fair footing. We are going to do that and we expect the same from you. That is common sense.

Mr. Horn:

I do not mean to be antagonistic. I have something to sell to the men and I want this clear so that I can sell it to them.

Mr. Ball:

You will note in the Plan that slate or sandrock over 12 inches is to be moved at Company expense. When you take that in connection with what we are discussing it clears the matter. The men must not load that slate or sandstone with the ore.

Frank Allen:

I have seen certain Mine Foremen come through when they wanted a big run and say, "I don't know slate from ore, load everything."

Mr. Ball:

I know that has been done in years gone by.

Mr. Horn:

You have said in the past that it is hard not to play favorites. Under this Plan it is easy to see how favoritism can be shown.

Mr. Ball:

Mr. Horn, we are all human, but I believe we have been fair in the past. You must remember that no man can be discharged without my approval.

Mr. Jones:

What would be your reaction if the Mine Foreman recommended that a man be discharged for loading slate?

Mr. Ball:

That is nothing new. I would investigate as I did under the old system. If any man consistently loaded slate

he would be discharged and that is what would happen under the Incentive Plan.

Mr. Horn:
Don't you think this matter should be cleared up?

Mr. Vance:
That is just a question of interpretation. That was quite clear to the man that wrote that paragraph. You and I may have placed a different meaning on it.

Mr. Horn:
I want to make the statement clear.

Mr. Vance:
There is nothing subtle in this. You may have interpreted it a little different. That is what has caused all the different religions in the world, just a little difference in the interpretation of the wording of the same book. Two men can put a different construction on the same article. As I see it you seem to think that this will be used as a club against certain men.

Mr. Horn:
That is exactly it, and I do not mean any reflection toward any person here.

Mr. Vance:
The answer to that is that we do not expect any more than what is being done now; is that right, Mr. Ball?

Mr. Ball:
That is all we expect, but we do insist on as clean ore as we have been loading in the past. The same rules and regulations will apply with reference to loading slate and sandrock.

Mr. Horn:

Then why not change it to read just as you have said it?

Mr. Ball:

That would not clarify it, as it would all go back to the judgment of someone. It is all based on common sense.

Mr. Horn:

O. K. Let's pass that up for now, but if you said, "clean ore" to the present state of cleanliness that would clear it up.

Mr. Ball:

That would not make it any clearer.

Mr. Horn:

Mr. Ball, you know that you haven't a man in the mines that is loading clean ore and if I were a Mine Foreman and I wanted to get rid of a man I believe I could convince you that he should be fired.

Mr. Ball:

If I went in a place and found the top had fallen out and the Head Miner could not show me where it went I would know that it had been loaded and sent to the furnaces. It is easy for the Management to catch men loading slate.

Mr. Horn:

If that was stated in the Plan like you have stated it we would be satisfied.

Mr. Vance:

If we made it read as you suggest the men that are now loading lots of slate would be safe.

Mr. Ball:

All we expect is for the men to do their part and we will do ours. Regardless of how it is written it goes back to the judgment of the men that inspect the ore.

Mr. Horn:

If you made it read "nearly clean ore" that would fix it.

Mr. Ball:

That makes it worse.

Mr. Horn:

How about "reasonably clean ore"?

Mr. Vance:

Our ideas of "reasonably clean ore" might differ.

Mr. Horn:

We are not getting anywhere, let's pass that up.

Mr. Ball:

The next item is "Earnings Under the Incentive Plan."

"Under this paragraph your Employees are requesting a flat 10% increase in pay for all employees, as well as those set out in the statements A-1, A-2, A-3, A-4, A-5, and A-6."

The only answer to this is No, with the added statement that studies are being made to put the so-called Service Crews on the Incentive Plan, so that they will have an opportunity to make more money. Are there any questions?

Mr. Horn:

No: that statement is quite clear.

Mr. Ball:

The next item is Section Crews: "Your employees request that an amended plan be tried out in a fair and honest way while the section crews stand as they are at present, however, rearranging the work week in this manner. Crew #1 and Crew #2 work an entire week of five days or 40 hours. Crew #2 is off the next week permitting the Crew #1 and Crew #3 to work an entire week, to be followed in the succeeding week by Crew #2 and Crew #3. By altering the work week in this manner if there is any added cost due to the three crews it will be promptly brought out and at the same time the Company will have permitted one entire shift of its old and loyal employees to have at least earned sufficient money to procure the bare necessities of life. This we feel the Company is due its employees and in so doing this will also be complying with the request of the President of these United States in giving all of those employment possible."

The answer to that is No, so far as the crews are concerned. As stated in my letter to you, Mr. Horn, there are no longer any crews known as No. 1, 2 and 3. The men will be picked by the Head Miner, approved by the Superintendent and General Superintendent. All men under the Head Miner will be expected to work 40 hours per week, if the work is available, but the Head Miner will work six days if necessary. Each Head Miner will carry one or two extra men so as to rotate the men if it is necessary for any mine to work six double turns per week. The sharing of work is finished. This Company is not a charitable institution and we will no longer share work with men who are not needed in the operations. Other Companies are not doing it and we have gone our limit in this respect. The next paragraph requires no answer as we do not agree to the paragraph above. In the following paragraph:

"No drag scrape or section crew except during emergency be permitted to start work before usual working time and must cease work at the regular quitting time."

Our studies show that the men do not do that now. When we check men in the mines we expect them to give a full eight hours work. The next paragraph states:

"Days work to consist of eight hours, 6:30 a. m., to 2:30 p. m., and 6:30 p. m., to 2:30 a. m., with no time off for lunch."

Our answer to that is No. Our men go in the mines about 6:05 a. m., and they get to their working places about 6:45 a. m. Lunch is from 11:45 to 12:15. However, if the men want their lunch hour at some other time that is O. K. Quitting time is 3:15. That is eight hours face to face. Men that are working all day need their lunch period. They get up early and to keep in the best physical condition these hours should remain as they are. This also applies to the Service men. Are there any comments?

Mr. Horn:
That is clear.

Mr. Ball:
The next paragraph is "Method of Figuring Production and Earnings."

This should read, "at the end of each pay period the production of the Head Miners, etc." Also the sentence "no change shall be made in the rates or allowances without the approval of the General Superintendent" is not clearly understood.

Mr. Horn:
Is that based on the mine tonnage?

Mr. Ball:

No, I don't think you understand. There are two Head Miners in charge of the working place. A record is kept of the number of trams loaded by these two Head Miners and their crews, as a unit. These trams are added at the end of the payroll period and the men are paid on the basis of the average number of trams per turn for that period. The tonnage is based on the mine tram weights for the preceding month. This figure times the number of trams loaded gives the tons loaded. Each working place gets credit for the number of trams loaded.

Mr. Horn:

Then if one man loads light cars and the other men have to suffer, and if one man loaded good cars the others get credit.

Mr. Ball:

Men who load light cars will be discharged.

Mr. Horn:

You take the total railroad weights from each mine and divide by the total trams from that mine to get the tonnage in average trams. Is that right?

Mr. Ball:

Yes, that is right. The man that loads light cars will be put on the spot by his fellow workers, Mine Foremen, Assistant Mine Foreman and Ore Inspectors.

Mr. Horn:

Then if the average of one man's cars are five tons and another 4-½, they all get credit for 4-3/4 tons. Some cars can not be loaded as heavy as others.

Mr. Ball:

All trams can be loaded to average five tons or more.

There may be places where we have auxiliary hoists where you are pulling cars five or six hundred feet. In that case I would not charge the Hoist Engineer to the Head Miner. These things will be taken up by the Superintendent and I will rule on each case. There are places in No. 13 Mine where we use mule haulage and that will not be charged to the Head Miner. There will be no change in the rates in this Plan. There may be places where we will reduce the working place to 3, 10, or 12 feet In that case we would adjust the rate. Where the haul is short, it will be done by the Head Miner but where it is a long haul it will be done by the Company. Are there any questions?

Mr. Horn:

If anyone has any questions, ask them. (None.)

Mr. Ball:

The next paragraph is "Store Checks and Cash Advances." "Head Miners and crew may draw store checks and obtain cash advances in accordance with present regulations, based on occupational rates. All clacker to be exchanged for cash if requested by those possessing same between the first and third days of the month, on demand."

The answer to that is No. There is no reason for any man drawing more check than he needs. We do not require our men to draw store checks.

The next paragraph is "Work to be done by Head Miner and Crews" *Duties:* Setting all necessary temporary timbers. This has not been customary in the past and could only result in costly delays, by the men, when they should be producing ore. Other duties set out acceptable without discussion.

Those timbers that have been shot out, or knocked out by the drag, and can be set back in the same footwall hitch and will still fit against the roof, I have classified

as temporary timbers. If the roof has fallen out and the timber will no longer fit it is no longer classed as a temporary timber. The resetting of timbers is a safety problem and in most cases only require a few minutes. Temporary timbers are also those not placed in hitches but used to hold up roof until same can be quarried or shot down.

Mr. Barksdale:

If two or three timbers are knocked out then the whole drag crew will have to stop and set timbers. The timber crews have been doing that and the drag crew has been going ahead. It would probably take a half day to set the timbers.

Mr. Ball:

If the footwall is clean, they can be reset in the same hitch in a few minutes, and assures your safety.

Mr. Barksdale:

Suppose the crew is dragging in that place.

Mr. Ball:

That is no different from what you are doing now. You do not use many temporary timbers.

Mr. Anderson:

The timber crews cut the temporary timbers at the knuck and then haul them to the heading.

Mr. Ball:

Yes, but we will have the timbers in the working place. As I said, you use very few temporary timbers.

Mr. McDaniel:

We agree with you on that but we do not think the drag crew should have to stand those timbers.

Mr. Ball:

I have explained what a temporary timber is. It only requires a very few minutes to set one.

Frank Allen:

The back of the timber will break when they are shot out.

Mr. Ball:

If the timber will not fit it is no longer a temporary timber. If the timber is broken it would have to be replaced by the Timber Crew.

Mr. McDaniel:

I always understood that a temporary timber was one that was not set in a hitch.

Mr. Ball:

If the timber can be set back in the same hitch and will still reach the top, it is a temporary timber and it should be reset for your own safety.

Mr. McDaniel:

In most cases the hitch is covered with muck. Then you have to take the whole crew and clean out before it can be reset. This will cause delays.

Mr. Horn:

Let's pass that up for now.

Mr. Ball:

Next item 18—Drill Runners. "Perform such other duties as may be assigned to him by Head Miners. (This to be discussed at meeting.)" What is wrong with that paragraph?

Mr. Horn:

It can be used for discrimination the same as the clean ore. We think it was put in for a purpose.

Mr. Ball:

That was put in there so that the Drillman would know that he is supposed to do whatever is needed in the heading.

Mr. Vance:

It was also put there to show that the Head Miner is boss and that he is in charge of the work.

Mr. Horn:

If you read the other duties here it looks like the Drillman has plenty to do. It looks like that was put there so that when the Drillman has finished his work the Head Miner can make him help the other men.

Mr. Ball:

It is up to the Drillman to break plenty of ore and that should take all of his time, but if he is needed for other work I think he would be willing to do it because he is getting paid on the production from that heading.

Mr. Horn:

The Drillman will not be able to drill out if he has other duties. There are two sides to the question.

Mr. Vance:

Yes, and one is the suspicious side.

Mr. Horn:

Some of this is new to me. I am not a miner.

Mr. Ball:

I think you will find that all the men in the heading will work as a unit. They will all be trying to get production.

Mr. Horn:

If the Drillman goes down there and does a days drilling he should be through and not made to do other things.

Mr. Ball:

You know that some of the Drillmen tear down at 1:00 o'clock.

Mr. Barksdale:

Some of the other men will drag around and then the Drillmen will have to help them do their work. If he drills out he has done a good day's work.

Mr. Ball:

I think you can trust the Head Miners to see that the drilling is done. It will be up to all of the men to work as a unit. It will be to every man's interest to get the greatest possible tonnage. We know that the Drillmen are not doing the drilling they should.

Mr. McDaniel:

Some of the men are only drilling eight and nine holes now, then they would have to help the drag crew.

Mr. Ball:

There are three places to drill and if he has drilled out in one place he can move to another. The idea is to get the muck down.

Mr. Barksdale:

Do you mean that if a man drills out in one place he should tear down and set up in another place?

Mr. Ball:

Yes. He gets paid on the basis of what is loaded.

Mr. Vance:

The idea is this—a man may drill out and sit down and if the Head Miner has nothing for him to do he may keep sitting. The idea here is to show that the Head Miner is boss and that the Drillman should help if needed.

Mr. Horn:

That looks like the clean ore proposition to me. It is a good chance to use discrimination.

Mr. Vance:

That is not the idea of the paragraph. He may not be needed but the Head Miner is boss and if he is needed he is expected to help and it will be to his interest to do so. It is the same as if Mr. Neal asked Mr. McDaniel to do certain work. He will do it because Mr. Neal is his superior officer.

Mr. Horn:

If a man has to do so much of another man's work his own work will suffer and he will have to quit or be discharged.

Mr. Ball:

That will not be done. The drilling must be done for the crew to make money.

Frank Allen:

The Head Miner will work a man so hard one day that he will not be able to work the next day.

Mr. Vance:

That would be poor management. The Head Miner would be hurting himself.

Mr. Barksdale:

One Section Foreman made the statement that when the mines went back to work that his men would work eight hours if they carried the skidder block all day.

Mr. McDaniel:

Some of the Section Foremen made the statement just before we shut down that when the mines went back to work that they would be the boss.

Mr. Ball:

If the ore is not coming from the heading changes will be made.

Mr. Horn:

Let's pass the subject. The same objection is made in the duties of the other men so there is no use going into that.

Mr. Ball:

Reference is made here to a small pump. This is just a matter of turning on the valve, and I don't think the Drillmen will waste so much water. The proposal also states "Helpers, drill runners and drag operators move equipment to working places and set up." What is the matter with that?

Mr. Horn:

That means that the crew has to move the equipment and then operate the small hoist.

Mr. Ball:

That is true for the short hauls.

Mr. Horn:

It does not specify short hauls.

Mr. Ball:

I explained that before.

Mr. Horn:

Is it not the duty of the Head Miner to stay with the Drillmen when quarrying is being done? If so, how can he operate the hoist and watch the quarrying?

Mr. Ball:

If the Head Miner thinks the quarrying is dangerous work he should stay there, but the Head Miner is like the Mine Foreman. The Mine Foreman can not be in every working place in the mine at the same time. He goes to the place he is most needed.

Mr. Barksdale:

There are some places where the Section Foreman acts as flagman.

Mr. Ball:

That can be done with the seven man crew.

Mr. Barksdale:

It can be done but the production will suffer.

Mr. Ball:

That will stand as it is. You will find that the Head Miners will get a square deal on the long hauls. Let me again make it clear that the Management assumes full responsibility for the production and will do its part to help the men make more money but the men will also have to work a little harder than they have. Some of the men are dragging along, being late getting to their working place, they tear down early, and leave before quitting time. I have seen places where from six to fifteen more cars could have been loaded.

Mr. Horn:

That could be done and there would be no objection but this is stretching the work.

Mr. Ball:

This is not stretch-out. It is the proper application of time and effort. The men work as a unit. We feel that the base established in the Plan is correct and the men can easily make more money. I have had application from contractors that are now employed with other companies because they know the Plan as presented here is fair and they can make money. We don't expect the impossible but we do expect a fair day's work for the guaranteed wages. We will help as much as possible by suggesting short cuts to help the men make more money.

Mr. Horn:

A few moments ago you said that some of the men were late getting to work. You don't mean the men that go after the mules, who have to curry, etc.

Mr. Ball:

No, I mean those men that get off the skip and then drag along to their working place.

Mr. Horn:

Let's pass that subject.

Mr. Ball:

The next item reads as follows: The Check Off., "Employees shall have the right upon written assignment by the Locals, to have dues not exceeding an amount predetermined by the locals in lawful and regular session checked off the wages of such employees. The amount shall be remitted to the person provided for in this agreement on or immediately following the date of the regular

pay day. No assignment or dues other than provided in this section shall be checked off for the account of the Tennessee Coal, Iron & Railroad Company, Locals Nos. 123, 153 and 157, except upon authorization by the Executive Board of said Locals, except funeral and sick benefits may be checked off along with each month's dues. Initiation fees (not exceeding $10.00 for any one man, and in sums not to exceed $2.00 per man in any pay period), where proper written authorization has been made to the Company by the Employee, shall be deducted by the Company and remitted to the Financial Secretary of International Union of Mine, Mill and Smelter Workers Locals Nos. 123, 153 and 157."

The answer to that paragraph is No.

The next paragraph No. 22—"Employees Agreements", and reads as follows: "Provisions of the proposed Employees Agreement relative to collective bargaining and other questions not embodied in the above plan to be discussed formally at the time and place as set out for the above meeting."

With reference to this paragraph, there will be no signed Agreement, but we are willing to extend the present Letter of Understanding, which is to include the Incentive Plan as an additional part of the present Letter of Understanding.

The next is Definitions: "Your employees feel that paragraph one should read, 'a fair day's work'. This is the daily production of an average section crew working in an average heading at the average rate of skilled miners with average allowances for personl necessities, fatigue, and general mining delays and conditions."

That is unnecessary, as the meaning is the same as in the Incentive Plan. The next paragraph reads: "The second paragraph should read 'Earnings'—ten per cent increase of the occupational rates and ten per cent increase in the expected rates as illustrated in Exhibits A-1 to

A-6 inclusive. Possible earnings Under Best Conditions" —no comment.

This is the same as Paragraph 7 of the proposal Earnings Under the Incentive Plan. The answer is the same —No. Is there anything anyone would like to say? I suppose you will want another meeting.

Mr. Horn:

I would like to submit the results of this meeting to the locals, before having another meeting. We will either have to have the minutes or trust to our memories as to what took place here today.

Mr. Ball:

You will be furnished with the minutes of this meeting some time tomorrow.

Mr. Horn:

It looks like we are just where we started and I would like to have the minutes to know what was said.

Mr. Ball:

We hope to have them ready by noon tomorrow and will call Mr. Barksdale as soon as they are ready. The meeting is now adjourned.

Adjourned at 1:15 P. M.

B. H. BARKSDALE,
For the Committee.

E. M. BALL,
General Supt., Ore Mines & Quarries.

3617 T. C. I. EXHIBIT No. 13.

Statement Issued to the Press by Governor Graves.

August 4, 1936.

I am very happy to announce that all parties concerned are in agreement upon a plan whereby the pending strike in the ore mines of the Tennessee Coal, Iron and Railroad Company will be immediately ended and work resumed therein at once.

This amicable settlement has been brought about by mutual concession on all sides which shows the spirit of cooperation and of willingness to consider the public good that can only be denominated by the word "patriotic," and I congratulate all interested and especially the much concerned public on this happy outcome.

The understanding is as follows:

"In compliance with the request of Governor Graves, for the purpose of informing the public as to the situation in regard to the strike of the ore miners of the Tennessee Coal, Iron and Railroad Company, and for the purpose of settling the strike now current and in the interest of sound labor relations, it is proposed that the so-called incentive plan be given a trial of four months under the following conditions:

1. That the employees and the Company set out the contentions of their respective sides for use in any ultimate settlement.

2. That a body be appointed including one member to be appointed by the employees of the Tennessee Coal, Iron and Railroad Company who are members of the

International Union of Mine, Mill and Smelter Workers, one member to be appointed by the employees of the Tennessee Coal, Iron and Railroad Company who are members of the Brotherhood of Mine Workers of Captive Ore Miners of the Tennessee Coal, Iron and Railroad Company; two members to be appointed by the management of the Tennessee Coal, Iron and Railroad Company, and three members to be appointed by Governor Graves. This body will serve as an investigative agency during the operation of the aforesaid period of trial in which each side will have full opportunity to present their contentions for the purpose of making these contentions public, if in the opinion of this body it is proper to do so, and to use their offices to settle differences arising during the trial period as it pertains to the merits of the controversy which shall be made public and with no power to coerce either side; public opinion to be the only power to be availed under this arrangement.

3. The Tennessee Coal, Iron and Railroad Company estimates that no more than 273 workers will be laid off and if the number to be laid off exceeds that is willing to have full discussion before the body and give full consideration to the body's opinion in this matter, and the body may make public such information as they deem necessary. This estimate of men to be laid off is based on the operations as of May, 1936.

4. That the Tennessee Coal, Iron and Railroad Company will not discriminate against members of the International Union of Mine, Mill and Smelter Workers as such.

5. That during the operation of the plan every effort will be made on both sides to settle on the ground any disputes which may arise.

6. It is understood that any and all employees shall have the right to take up with the management of the Company any and all grievances through proper representatives of their own choosing.

7. That before the termination of this agreement, the aforesaid body shall have the power to make public any and all facts that it has ascertained in these hearings to the end that the public may be fully advised of the situation.

8. Accordingly the parties agreeing to this plan, both employer and employees, shall use every honest effort to give this plan a fair and impartial test. It is agreed that neither employees nor management will put any obstacles in the way of the other to prove or disprove the working of the plan."

It will be noted that the incentive plan is to be given a fair trial by all for a period of four months; that the body to be named; 2 by the Management, 2 by the Employees (one by the Brotherhood and the other by the Union) and three by the Governor is to act as a body for the purpose of making public such information in regard to this trial as considered appropriate and in the interest of sound labor relations.

It will also be noted that this body has no power other than to secure such information as applies to the operation of the ore mines and the trial period of the wage incentive plan and making same public.

This willingness of both management and men to submit the merits of their sides of the controversy to a forum of an enlightened public opinion certainly argues well for the faith each side has in the merits of its contentions and in my opinion this is the most important step taken towards settling controversies of this kind at

the bar of an enlightened public opinion, which I believe in America is the safest tribunal.

So soon as the members selected by the management and the men are supplied to me I will announce the members whom I shall appoint as representatives of the public.

I believe that settlement of our industrial differences means an early and material enlargement of our industry.

3620 T. C. I. EXHIBIT No. 14.

T. C. I. Exhibit No. 14 is in all respects identical with Exhibit "C" to the Petition of Petitioner-Plaintiff Tennessee Coal, Iron & Railroad Company, heretofore set out. (Record, p. 105.)

3621 T. C. I. EXHIBIT No. 15.

Birmingham, Alabama, June 26, 1935.

Mr. Luke Cushman, President, Brotherhood of Mine Workers of Captive Mines, Muscoda, Alabama.
Mr. Louis Harmon, President, Brotherhood of Mine Workers of Captive Mines, Wenonah, Alabama.
Mr. Tom Brown, President, Brotherhood of Mine Workers of Captive Mines, Ishkooda, Alabama.

Gentlemen:

For the past year there has been an understanding between a committee representing certain of our employees in the Ore Mines and the Management. This understanding is covered by a letter written by Mr. Robert Gregg under date of June 25, 1934, to the Honorable Secretary

and Commissioners of the United States Department of Labor. I quote from this letter as follows:

"We are entirely willing to deal with this Committee on matters of collective bargaining as they arise for all our Ore Mines employees as they may represent.

The employees at our Ore Mines have been free to join any organization they chose without prejudice or discrimination and this is the policy of our Company.

It is understood that the wage scale attached to this letter constitutes the rates to be paid by us for the various classifications as shown.

Our men at each mine are free to select a committee to represent them in adjusting any grievance that may arise between them and the Management which the employee himself cannot settle satisfactorily with his immediate supervisor. It is understood that such committee will not take up any grievance with the Management unless and until the employee has endeavored to adjust the matter himself.

If the Committee and the Foreman of the mine fail to adjust any grievance, the matter will then be taken up by the Committee with the Mine Superintendent. Failing to reach an agreement in this event, it will be taken up with the General Superintendent of Ore Mines. If they should fail to agree, the matter may be submitted to arbitration, one arbitrator to be named by the Committee and one to be named by the Management of the Company and these two may select a third.

It is understood that the management of the mines is vested exclusively in the Company and the duties of the mine committees shall be confined as above outlined.

It is understood that no such mine committee will interfere with the operations of the mine to enforce any purely local grievance until the full procedure of settlement has been followed."

Referring to a conference you had with Mr. E. M. Ball on June 24, 1935, I wish to submit the following: The management reiterates its former statement of policy to the effect that it will receive and negotiate with the representatives of any organization, as such, as spokesmen for the employees they represent on any matters of wages, hours or working conditions.

Confronted with the present low operating schedule the Management cannot agree to any upward revision of wage rates at this time, and proposes that the arrangement outlined in the letter of the President of the Tennessee Coal, Iron and Railroad Company of June 24, 1934, to the Honorable Secretary and Commissioners of the United States Department of Labor be continued in effect until such time as it is more definitely indicated that such an arrangement is no longer practicable.

At any such time the Management is willing to negotiate with duly authorized representatives of the employees to accomplish any necessary revisions of the existing arrangement.

I attach herewith copy of the present wage scale.

Yours truly,

J. L. PERRY,

President.

enc.

3624 T. C. I. EXHIBIT No. 16.

Tennessee Coal, Iron & Railroad Company,
Muscoda Division.

Minutes of Meeting.

Held in General Superintendent E. M. Ball's Office.

June 24, 1935.

Those present were:

Mr. E. M. Ball, General Superintendent,
Mr. Ewing Carter, Supt., Muscoda,
Mr. G. B. Neal, Supt., Wenonah,
Mr. C. B. Cameron, Supt., Ishkooda,
Mr. A. W. Beck, Chief Engineer,
Mr. M. E. Baird, Gen. Supt., Clerk.

and the following Committee from the Red Mountain Chapters of the Brotherhood of Miners of Captive Mines of Alabama:

Mr. Luke Cushman, President, Muscoda Chapter,
Mr. Glenn Ingram, Secretary, Muscoda Chapter.
Mr. Frank Costello, Muscoda Chapter
Mr. Clarence Hutchison, Muscoda Chapter,
Mr. Tom Massey, Muscoda Chapter,
Mr. Robert Grimes, Muscoda Chapter
Brooks Dobbins (c) Muscoda Chapter
Eugene Coffee (c) Muscoda Chapter
Willie White (c) Muscoda Chapter
Mr. Louis Harmon, President, Wenonah Chapter
Mr. F. C. Wilson, Secretary, Wenonah Chapter
Mr. H. W. Kiker, Wenonah Chapter

Mr. T. E. Brown, President, Ishkooda Chapter,
Mr. Hugh Strong, Secretary, Ishkooda Chapter
Mr. H. W. Nelson, Ishkooda Chapter
Mr. L. Strong, Ishkooda Chapter
Joe Simons (c) Asst. Secty., Ishkooda Chapter.

The meeting was called to order at 4:30 P. M., by Mr. E. M. Ball, General Superintendent.

Mr. Ball:

Men, this meeting has been called to keep you advised as to the progress of the negotiations with the representatives of the Mine, Mill & Smelter Workers. I told you at a meeting held in my office at 2:00 P. M., June 21st, that certain proposals had been presented through me to Mr. Perry, President of the Tennessee Coal, Iron & Railroad Company, at which time Mr. Perry asked them to withdraw the proposals before further discussions were entered into. On Monday morning, June 24th, at 10:00 A. M., a meeting was again held with these representatives in Mr. Perry's office. Mr. Horn as spokesman stated that the Locals had voted not to withdraw the proposals. However, they wanted to know what Mr. Perry had in view in place of their proposals. Mr. Perry then presented them with a copy of this letter. (Mr. Ball then read the letter to Mr. Barksdale, Mr. McDaniel and Mr. Anderson.) I wish you men would please note very carefully that this is nothing more than a statement of the company's former policy of dealing with representatives of any organization as such, as spokesman for the employees they represent. This letter also refers to the letter under date of June 25, 1934, to the Honorable Secretary and Commissioners of the United States Department of Labor and is an outline of the Company's position taken last year. Please note that this understanding is to continue in effect until such time as it is more

definitely indicated that such an arrangement is no longer practical.

Mr. Horn then told Mr. Perry that if we would come to an understanding about the division of time that he would go with the presidents to their locals and try to sell the counter-proposal as outlined in this letter I just read to you.

Mr. Brown:

I was talking to a man today and I told him that the present working agreement was perfectly satisfactory. Of course, when business conditions improve we would expect consideration and if business gets worse we would expect some reduction. I have always been treated fairly by the Tennessee Company.

Mr. Ball:

As I told you at our last meeting we propose to put in operation our No. 8 Mine at Wenonah, provided there is no labor trouble on Red Mountain. This will give part time work to the Wenonah employees who are now idle. With further reference to the division of time, we have considered a great many times of dividing the time of our Section Foremen, Timbermen, Trackmen and Underground Carpenters. This is especially so since our low rate of operations since June 1st. Mr. Perry and Mr. Abbott said that they would leave this matter entirely up to me and I held a meeting at 3:00 P. M., today to further discuss the division of time with the representatives of the Mine, Mill & Smelter Workers. By so doing I want you men to clearly understand that I am not setting a precedent. We used to do this several years ago and if the results as to efficiency and safety are not as good, or better, than at present, we will go back to the old method or find some new method of supervision.

Mr. Kiker:

Mr. Ball, it looks like the majority has the say. It looks like there is nothing for us to do but take the arrangements made by the Smelters Committee.

Mr. Ball:

There is no agreement except for a continuation of the present understanding as I previously explained to you. I explained to the other Committee just like I am explaining to you that there has been a slight change in the Management's policy of further dividing the time during the period of slack operations for those occupations which have not been affected recently.

Mr. Ingram:

We will be satisfied if we can get work, but it looks as if we are going to have to work under the old understanding, or agreement, made with the Smelters last year when the strike was settled.

Mr. Ball:

Mr. Ingram, you must remember that at that time last year there was no Brotherhood organization on Red Mountain.

Mr. Harmon:

If we are going to work under that agreement, or understanding or whatever you want to call it, I think we should have a copy.

Mr. Ball:

I do not believe all you men are familiar with the letter outlining the Company policy which was written to the Department of Labor last year. Let me make this suggestion: Why not go into another room and take this letter which Mr. Perry has presented to the representatives of the Mine, Mill & Smelter Workers and also a

copy of the original letter of understanding outlining the Company's policy under date of June 25, 1934, and discuss them among yourselves.

(Note: Committee went into another room and returned after about thirty minutes.)

Mr. Hugh Strong:

This Committee has asked me to say a few words in regard to this understanding. I have been in the Brotherhood since it started and I get all worked up when things go against our organization that we have tried so hard to build up. We come to the conclusion a long time ago that the men who lead the Smelters are not the type to lead or represent us. In this agreement I do not feel that the Brotherhood has been given due consideration. We feel that the Brotherhood should represent the members in this organization. If we deal with the Management we expect to have some rights and we do not feel we should be a party to an agreement entered into between the Company and the Smelters. We feel that it is unfair to the Management and to the men in making this change of dividing the time of the Section Foremen, Timbermen, Trackmen and U. G. Carpenters. The present men on these occupations are competent and we do not feel that the men should have to work under untrained Section Foremen.

Mr. Ball:

I do not think you men really understand the letters I have turned over to you. There is no agreement. There is simply a proposal to continue the present agreement and the Management always reserves the right to make any change in its supervisory forces that they deem advisable. I am so telling this Committee as I told a previous Committee that if this arrangement does not

work out to the advantage of the Company we will make some other changes. Mr. Strong, you have the wrong idea about men working under untrained Section Foremen. Allow me to explain in this manner: When we were operating No. 11 and No. 13 Mines double turn we had about 40 Section Foremen. We now have with No. 11 Mine only, operating about 18 or 20 Section Foremen. This simply means that instead of a Section Foreman working his full five or six days a week, other Section Foremen who are competent will divide the time with him. This also applies to such occupations as Timbermen, Trackmen and U. G. Carpenters.

Mr. Ingram:

The Smelters have gained a point on us because they came to an understanding and we had no voice in the agreement.

Mr. Cushman:

The Smelters are not fighting the Company, they are fighting us. If they can get rid of our organization they can handle the Company as they see fit.

Mr. Massey:

If you allow this agreement to stand it will ruin our organization. We will have more Smelter Section Foremen than Brotherhood.

Mr. Ball:

Men, please let me try to get this idea across to you again. The counter-proposal made by Mr. Perry is for a continuation of the arrangement which has been in force for the past year and the representatives of the Smelters have been informed by me as I am now informing you that we intend to divide the time among the Section Foremen, Timbermen, Trackmen and Under-

ground Carpenters, and unless this arrangement works out to the advantage of the Company we will go back to the old method or try some new method of supervision. Surely you men never had the thought that we put men in a supervisory position because he belonged to one organization or the other. Let me make myself clear on this point—men are promoted on their ability to do the work. Everything else being equal seniority counts but not before. The Management has always reserved the right to appoint and place men in supervisory capacity, or to place employees in certain working places and we intend to continue that policy.

Mr. Hutchinson:

The present Section Foremen were picked by the Management and they have been a success.

Mr. Ball:

When operations are reduced we do not have enough jobs for all of our men and it is up to the Management to place the men in the available jobs whom we think will get the best results for the reduced operations.

Mr. Massey:

Then I can only work the days my crew works. If they only work two days then I can only work two days.

Mr. Ball:

That is right. If our schedule of operations allows three days for the entire mine crew then the Section Foreman gets three days. If the time is reduced then the Section Foreman gets the same amount of time as his crew. We intend, to the best of our ability and with the work available, to so divide the time that all the occupations below Assistant Mine Foreman will get an equal amount of work.

Mr. Brown:

It looks to me like this arrangement was made for the benefit of the Section Foremen who belong to the Smelters.

Mr. Ball:

I can not agree with that statement. You men will remember that when we were operating at a good capacity during the months of January, February and March that the men on Red Mountain were well satisfied and now with reduced operations and with further reduced operations facing us for some time in the future, we are making an attempt to further divide the available work.

Mr. Brown:

For some time past the Smelters have been making their brags that after June 25th, the Section Foremen would be dividing the time like the rest of the men. They have done that very thing. We might just as well quit and join the Smelters because they made the very point they said they would.

Mr. Ball:

I do not believe you men are using the proper viewpoint. I have stated repeatedly in this meeting that the division of time is for the Management to decide, and we have decided to further divide the available work. Just consider this question from a viewpoint of fairness. The available work on Red Mountain is very limited, in fact there was a possibility on June 1st of closing all the mines due to no orders for finished products. The Management after a great deal of discussion decided that we would temporarily operate No. 6 Mine and No. 11 Mine, and that was done for the simple reason to give work to our employees.

Mr. Grimes:

Mr. Ball, I hope you will not think that we are selfish and do not want to divide the time. We realize that with the limited amount of work that it is only fair and just that we should divide the time as far as possible among the occupations you believe will not affect the efficiency. With regard to the agreement, or understanding we have been working under, I understand that Mr. Perry's proposal is an extension, but you also realize that the men in the Brotherhood have had a tough go. We have lost friends but we believe in our organization and I think there is a little feeling here that a concession was made to the Smelters.

Mr. Ball:

I have been thinking about making this change for some time. The unfortunate part is that we do not have enough full time work for all of our employees.

Mr. Grimes:

I wish conditions would get back like they once were. I have heard many times in the past, before the Brotherhood or Union started here, that if a man on Red Mountain was not getting a square deal he could go to Mr. Ball and get straightened out.

Mr. Ball:

That policy is still in effect and I hope all employees in the Ore Mines and Quarries will continue to come to me with any differences they can not satisfactorily adjust with their Foreman or their Superintendent. Let me make it clear that the present understanding makes it clear that the Company will bargain with the representatives of its employees.

Mr. Cushman:

We know that Jim Lipscomb told the Smelter Committee last Sunday morning that last year when they came out on a strike that they were organized 100%. This year they are only organized about 50% and the union can not depend on them. He told them that they should go to Mr. Perry and get any kind of settlement they could. He also told them that if the Company decided to operate in the event of a strike that the Brotherhood would work and would defeat the union.

Mr. Massey:

Mr. Ball, I believe the Brotherhood has over-estimated the confidence that you and the Company has in our organization.

Mr. Ball:

You should not feel that way about it, Mr. Massey. The Company has always had the interest of its employees at heart and I want you to know that if this was not so we would not be operating some of the mines today. We really do not need the ore we are mining but the Company desires to give the employees all the work possible and I sincerely hope you men will do a lot of thinking along this line.

Mr. Ingram:

Would you consider posting a notice to the effect that the Company has decided to divide the time between the Section Foremen. We would like to make it clear that the Company is making this change and not the Smelters.

Mr. Ball:

We will not post any notices about the further division of time among certain occupations. That is a problem that is strictly up to the Management. We who are in

charge of our operations always have and always will make any changes we consider necessary. We do not post notices every time we change a Drill Runner to a Drag Operator, or when we change a Mine Foreman to a Section Foreman, or any other change affecting the placing of our working crews. Don't you think that a rather unfair request?

Mr. Ingram:

Well, Mr. Ball, maybe it was.

Mr. Brown:

I think if we can get a copy of this letter, addressed to the officers of the Brotherhood, it will help us in the Brotherhood a great deal.

Mr. Harmon:

I think a letter addressed to us will help us.

Mr. Cushman:

I think the Muscoda Unit of the Brotherhood should have a letter to show the Brotherhood members that they have the same rights as the Smelters. For this Committee, I wish to thank Mr. Ball for his patience and assure him that we are still loyal to the Company. We have had a hard fight to keep our organization together and we have about reached the stand-still point in regards to new members. It means that we will have to work harder for our organization. I suggest we adjourn.

Meeting adjourned at 7:45 P. M.

E. M. BALL,
General Supt., Iron Mines & Quarries.

3633 T. C. I. EXHIBIT 17.

May 6, 1937.

Mr. E. M. Ball,
General Superintendent, Ore Mines,
Tennessee Coal, Iron & Railroad Co.,
Muscoda.

Dear Sir:

As you know, the employees of the three red ore divisions, viz: Muscoda, Wenonah and Ishkooda, are now working under an agreement between the Brotherhood of Mine Workers of Captive Mines and the Company contained in a letter from Mr. Perry, and minutes of meetings between the management and the Brotherhood Committee. It is the desire of these employees, more than 75 per cent of whom are members of the Brotherhood, to have executed a formal agreement, signed by the management of the Tennessee Coal, Iron & Railroad Company and the duly chosen representatives of the Brotherhood, and you will find attached hereto proposed agreement, with a request for a meeting of the Committee with the Management at the earliest convenient date.

Respectfully,

.....,
Chairman, Executive Committee.

3634 T. C. I. EXHIBIT 17-A.

This Agreement entered into by and between the Tennessee Coal, Iron & Railroad Company, a corporation, hereinafter referred to as the Company, and the Brotherhood of Mine Workers of Captive Mines, hereinafter referred to as the Brotherhood, for the purpose of promoting and improving industrial and economic relations between those employes of the Red Ore Divisions and the Company, and to further set out herein the basic agreement covering rates of pay, hours of work, and conditions

of employment to be observed between the parties hereto, Witnesseth:

Section 1. It is understood and agreed that this agreement pertains only to the employes of the three Red Ore Divisions of the Company, viz: Muscoda, Wenonah and Ishkooda.

Section 2. It is agreed that the term "employe" as used in this agreement shall be meant to include all employes of said Red Ore Divisions except those salaried employes engaged in a supervisory capacity.

Section 3. It is agreed and understood that the Company recognizes the Brother of Mine Workers of Captive Mines (hereinafter referred to as the Brotherhood) as a collective bargaining agency for the employes of the Company of the three said red ore divisions, and will not interfere with the rights of its employes to become members of the Brotherhood.

Section 4. It is agreed that the present rate of pay and wages and hours, as agreed upon between the Brotherhood and the Company effective March 16, 1937, shall remain in effect until such time as negotiations concerning rates of pay and wages shall be opened by either party hereto.

Section 5. It is agreed and understood that the established day shall be eight (8) hours and the established week shall be forty (40) hours, and that time and one-half shall be paid for all overtime in excess of 8 hours in any one day and for all overtime in excess of 40 hours in one week, and that a week shall consist of any five (5) days or five (5) turns in any one calendar week followed by a forty-eight (48) hour rest period, as requested by the Company; that no employe shall be paid both daily and weekly overtime for the same overtime worked.

Section 6. It is agreed that each employee of said red ore divisions who prior to April 1, 1937, was continuously in the service of the Company for one year or more (Continuity of Service to be based on U. S. Steel and Carnegie Pension Fund Rules) shall receive one week's vacation with pay, such vacation to be taken in one single period; and that those who are granted vacations will be paid on their average rate of earnings for the previous two estimates immediately preceding their vacation, and that the total hours of vacation pay will be the average hours they worked during that period, but not less than 40 hours and not more than 48 hours; and that said vacations will, so far as possible, be granted at times most desired by the employe, but the final decision of the allotment to a vacation period is reserved by the Company to insure orderly operations of the plants.

Section 7. It is agreed that should differences arise between employees represented by the parties signatory hereto and the Company as to the meaning and application of the provisions of this Agreement, or should differences arise about matters not specifically mentioned in this agreement, or should any local trouble of any kind arise, that there shall be no suspension of work, by the employes represented by the parties signatory to this agreement, on account of such differences, but an earnest effort shall be made to settle such differences immediately, so far as the parties hereto or those represented by them are concerned, with the foreman; and, second, through the Superintendent of the mine and the Grievance Committee; and, third, through the General Management and the representatives signatory to this agreement, or their representatives; and, fourth, by a board consisting of four members, two of whom will be designated by the Brotherhood and two by the Company, and failing to agree they may select an umpire to decide the dispute.

Section 8. It is agreed that when an employe represented by the parties signatory hereto has been dis-

charged from his employment and he believes he has been unjustly dealt with that there shall be a case arise under the method of settling disputes herein provided; and should there be a case under the rules of this agreement that the employe has been dealt an injustice, the Company shall reinstate and compensate him at the rate based on the earnings of said employe prior to such discharge, provided however, that such case shall be taken up within five days and disposed of as promptly as possible.

Section 9. It is agreed between the parties hereto that the following days be considered holiday, during which days there shall be no regular production work, except in cases of continuous operations, viz: July 4, Labor Day and Christmas Day.

In Testimony Whereof, the said parties have hereunto set their hands this the 6th day of May, 1937.

TENNESSEE COAL, IRON AND RAILROAD COMPANY,
A corporation,

By .....,
General Superintendent, Ore Mines,

By .....,
Manager of Industrial Relations.

REPRESENTATIVES OF BROTHERHOOD OF MINE WORKERS OF CAPTIVE MINES, RED ORE DIVISION,

.....
Chairman, Executive Committee,

.....,
Secretary.

(Also places for two committeemen each from Muscoda, Wenonah and Ishkooda to sign).

3637 T. C. I. EXHIBIT 17-B.

Tennessee Coal, Iron & Railroad Company.
Muscoda Division.

Minutes of Meeting.

Held in General Superintendent E. M. Ball's Office.

May 8, 1937.

Those present were:

Mr. E. M. Ball, General Superintendent,
Mr. J. F. Vance, Manager of Industrial Relations,
Mr. Ewing Carter, Superintendent, Muscoda,
Mr. G. B. Neal, Superintendent, Wenonah,
Mr. C. B. Cameron, Superintendent, Ishkooda,
Mr. A. W. Beck, Chief Engineer,
Mr. M. E. Baird, Chief Clerk,

and the following committee representing the members of the three Red Mountain Units of the Brotherhood of Miners of Captive Mines of Alabama:

Mr. S. I. Hudnall, Chairman, Ishkooda Unit,
Mr. Luke Cushman, President Muscoda Unit,
Mr. T. J. Massey, Muscoda Unit,
Mr. E. A. Best, Muscoda Unit,
Mr. Frank Costello, Muscoda Unit,
Mr. Jack Wilson, Wenonah Unit,
Paul Dumas (c) Muscoda Unit,

John McGhee (c), Wenonah Unit,
Hayes Judkins (c), Ishkooda Unit.

The meeting was called to order at 9:30 A. M. by Mr. E. M. Ball, General Superintendent.

Mr. Ball:
You men asked for a meeting today. The meeting is now open.

Mr. Hudnall:
Mr. Ball, I have been appointed as Chairman of this Committee succeeding Mr. Wilkins, who has resigned. We are very sorry to lose him, but I am going to fill this job to the best of my ability.

Mr. Ball:
I am sure this Committee has made a good selection.

Mr. Hudnall:
The purpose of this meeting is to present you with a proposed contract. (At this point the proposed contract was handed to Mr. Ball.)

Mr. Ball:
We will go over this contract section by section and have a full discussion of each.

The following changes were deemed necessary:

Opening Paragraph: Determine proper term—'Ore Mines' or 'Iron Mines'.

Section 1: To be changed to cover only those employees who are members of the Brotherhood.

Section 2: To be modified.

Section 3: To be modified.

Section 4: To be modified. Revise with respect to time limit.

Section 5: To be re-written to comply with Company rules as now applied.

Section 6: Correct to read in accordance with established practice.

Section 7: OK, with possible minor changes in verbiage with no intent to change principle.

Section 8: OK as stated.

Section 9: OK as stated.

Closing Paragraph: Change to Executive Committee, Brotherhood of Miners of Captive Mines, Red Ore Division.

The following new paragraphs were suggested:

Paragraph to take care of local inequalities in rates.

Paragraph setting out that the Company continue to make provisions for health and safety of employees.

Paragraph to provide for future conferences for new contract.

Mr. Vance:

The procedure will be that we will offer you a counter proposal. When same is ready I will notify Mr. Ball and

he will arrange for another meeting with you at which time we will discuss the counter proposal.

The meeting adjourned at 11:00 A. M.

E. A. BEST,
For the Committee.

E. M. BALL,
Gen. Supt., Iron Ore Mines & Quarries.

3639 T. C. I. EXHIBIT 17-C.

Tennessee Coal, Iron & Railroad Company,
Muscoda Division.

Minutes of Meeting.

Held in General Superintendent E. M. Ball's Office.

May 23, 1937.

Those present were:

Mr. E. M. Ball, General Superintendent,
J. F. Vance, Manager of Industrial Relations,
Mr. Ewing Carter, Superintendent, Muscoda,
Mr. G. B. Neal, Superintendent, Wenonah,
Mr. C. B. Cameron, Superintendent, Ishkooda,
Mr. A. W. Beck, Chief Engineer,
Mr. M. E. Baird, Chief Clerk,

and the following Committee representing the members of the three Red Mountain Units of the Brotherhood of Miners of Captive Mines of Alabama:

Mr. S. I. Hudnall, Chairman, Ishkooda Unit,
Mr. Luke Cushman, President, Muscoda Unit,

Mr. T. J. Massey, Muscoda Unit,
Mr. E. A. Best, Muscoda Unit,
Mr. Robert Grimes, Muscoda Unit,
Mr. Jack Wilson, Wenonah Unit,
Mr. C. F. Odell, President, Ishkooda Unit,
Mr. Sam Pitts, Ishkooda Unit,
Paul Dumas (c), Muscoda Unit,
I. V. Robinson (c), Muscoda Unit,
John McGhee (c), Wenonah Unit.

The meeting was called to order at 9:15 A. M., by Mr. E. M. Ball, General Superintendent.

Mr. Ball:
At our last meeting on May 8th, we went over your proposed agreement and we told you that we would give you an answer at an early date. The delay has been due to the pressure of other work. We have a counter proposal which I will ask Mr. Vance to read.

Mr. Vance:
I would suggest that we read the proposal and then if there is anything you do not understand we can come back to that and discuss it fully.

Mr. Hudnall:
I think that would be a good idea.

(Proposed contract read in full by Mr. Vance.)

Mr. Hudnall:
The Committee would like to retire and discuss this proposal.

(The Committee was gone for one hour and ten minutes.)

Mr. Hudnall:

There are several paragraphs in this proposed contract that we would like to go over again.

Mr. Vance:

If you will point out the paragraphs we will be glad to discuss them with you.

Mr. Hudnall:

The first paragraph we would like to discuss is Section 3. The Committee has voted to ask that this paragraph remain as stated in our proposal.

Mr. Vance:

If we were to agree to that we could be accused of straight out favoritism. We can not agree to that.

Mr. Best:

Our reason for that is that we do not want to 'peg' wages. If the cost of living goes up we have no way to get a raise. The Coal Miners recently got a raise of fifty cents per day and their contract has two years to run. They have lost all rights to an increase for two years no matter how high the cost of living may go.

Mr. Vance:

Any contract or agreement must be for a specified length of time. We can not agree to your proposal.

Mr. Wilson:

It is not that we have any idea of asking for an increase in wages, but we would like to leave the way open so that if the cost of living goes up we would not be barred from asking for an increase.

Mr. Ball:

The agreement works both ways. We can not reduce your wages unless you agree, until the expiration of this

contract. The Company has always been fair in the past. The raise in wages you got on March 16th was after we had reached an agreement based on the cost of living. That agreement was made in November 1936. If the cost of living were to advance to a point where it was necessary to give an increase in wages the Management could call in this Committee and advise you that an increase would be granted without interferring with this contract.

Mr. Vance:

That would be a voluntary act on the part of the Company and there would be no collective bargaining except possibly as to how that increase would be applied.

Mr. Cushman:

I notice that the Incentive Plan is not mentioned in this agreement.

Mr. Ball:

This agreement covers guaranteed pay. The Incentive Plan is over and above the guaranteed wage.

Mr. Vance:

It is set out very clearly in the Incentive Plan that if any adjustments are necessary they will be made. We are already on record on that point.

Mr. Hudnall:

The next point is in Section 13. The Committee voted that this should include such salaried men as we represent.

Mr Vance:

That is admitted. That paragraph is intended to include the salaried men. When we say wage rates we mean either hourly, tonnage or salaried rates.

Mr. Hudnall:

The Committee accepts that explanation The next i Section 14. We think negotiations should start at leas 30 days before the expiration of this agreement.

Mr. Vance:

The negotiations should be completed before the expira tion of the present agreement. Whatever time is neces sary to do that is OK.

Mr. Hudnall:

That is satisfactory to us. The next is Section 15. This Committee feels that the men who work on holidays should be paid time and half time.

Mr. Vance:

We have never paid time and half time for regular maintenance work. That is a condition of employment to work on such days as work is available. If we asked you to do other work than maintenance work we would expect to pay time and half time.

Mr. Ball:

You must remember that maintenance work is necessary in order that the mines be ready for operation on the next shift. If it become necessary for us to work on one of the days mentioned we could not to so unless we called in this Committee and mutually agreed to operate.

Mr. Cushman:

Every man likes to be off on holidays. It has always been a policy with all Companies to pay a little extra for these days.

Mr Ball:

It has been the policy in the past to allow the men to go home when their work is done. I see no reason to change that.

Mr. Hudnall

We accept that Section as it is. That brings us back to Section 3.

Mr. Ball:

You must understand that every agreement must have a fixed date.

Mr. Vance:

You may wish to take this counter proposal back to your units for consideration.

Mr. Best:

I suggest that the Committee retire for a few minutes and discuss this question again.

(Committee gone for ten minutes.)

Mr. Hudnall:

The Committee has voted to take your counter proposal back to their Units for consideration. We will advise you later of their action. We will give you at least two days notice of the next meeting.

Mr. Ball:

Suppose we agree to meet again next Sunday at 9:00 A. M., unless you come to an agreement before that time, and in that event we could meet about 4:00 P. M., some afternoon.

Mr. Cushman:

In order to save time, in case we agree to this proposal there would be no need of further discussion, and it would only be necessary for those who are going to sign the agreement to be present. That could be done in a very few minutes.

Mr. Ball:
That will be satisfactory.

The meeting adjourned at 12:00 noon.
(Signed) E. A. BEST,
For the Committee.
(Signed) E. M. BALL,
Gen. Supt., Iron Mines & Quarries.

3643 T. C. I. EXHIBIT 17-D.

This exhibit is in all respects the same as T. C. I. Exhibit 18 hereinafter set forth except that T. C. I. Exhibit 17-D does not bear the signatures set forth at the conclusion of T. C. I. Exhibit 18. (Record Page 3720.)

3644 T. C. I. EXHIBIT 17-E.

Tennessee Coal, Iron & Railroad Company, Muscoda Division.

Minutes of Meeting held in General Superintendent E. M. Ball's Office, May 30, 1937.

Those present were:
Mr. E. M. Ball, General Superintendent,
Mr. J. F. Vance, Manager of Industrial Relations,
Mr. Ewing Carter, Superintendent, Muscoda,
Mr. G. B. Neal, Superintendent, Wenonah,
Mr. C. B. Cameron, Superintendent, Ishkooda,
Mr. A. W. Beck, Chief Engineer,
Mr. M. E. Baird, Chief Clerk,
and the following Committee representing the members

of the three Red Mountain Units of the Brotherhood of Miners of Captive Mines of Alabama:

Mr. S. I. Hudnall, Chairman, Ishkooda Unit,
Mr. Luke Cushman, President, Muscoda Unit,
Mr. T. J. Massey, Muscoda Unit,
Mr. E. A. Best, Muscoda Unit,
Mr. Jack Wilson, Wenonah Unit,
Mr. Sam Pitts, Ishkooda Unit,
Paul Dumas (c), Muscoda Unit,
I. V. Robinson (c), Muscoda Unit,
John McGehee (c), Wenonah Unit,
Julius Hicks (c), Ishkooda Unit.

The meeting was called to order at 9:15 A. M., by Mr. E. M. Ball, General Superintendent.

Mr. Ball:
This meeting is now open. We will resume where we left off in our meeting of last Sunday.

Mr. Hudnall:
This Committee has not met since the last meeting of our units. It may save time if the Committee would retire a few minutes.

Mr. Wilson:
Before we retire I would like to call your attention to a part of Section 1, which states 'the term "employee" as used in this Agreement shall not include Foreman, Assistant Foreman or Supervisors in charge of any classes of labor'. If we let that stand in the Agreement it will bar the Head Miners, Timbermen, Trackmen, Lead Repairmen, etc., from our organization.

Mr. Vance:
The men you mention are not supervisors; they direct the work of the men but they are not supervisors.

Mr. Wilson:
We can't get that by with our men.

Mr. Ball:
A supervisor, not a Foreman or an Assistant Foreman, but a man like Mr. Birchfield, the Chief Mine Inspector. He has the right to go in a working place and shut it down if he thinks it is necessary.

Mr. Wilson:
We can not accept the statement in the Agreement about supervisors as it stands; why not change the wording?

Mr. Vance:
That is the standard working and the Management has the right to say who are supervisors. The men you have mentioned here are not supervisors, they are gang leaders.

Mr. Wilson:
For the time being we will accept your explanation and let the matter drop. Understand that we do not question the honesty of the Company in this matter but we want it worded so that the Board would understand.

Mr. Vance:
The management is the only one that would be in a position to say who are supervisors and who are not. If the Board were to rule otherwise there is nothing we can do about it.

(The Committee retired and were gone 15 minutes.)

Mr. Hudnall:
Mr. Ball, this Committee has voted to accept this Agreement as it stands. There is still some dissatisfaction about some of the wording, especially as to the matter we were just talking about, but we accept it as it stands.

Mr. Vance:

We will read the Agreement once more, checking the copies that are to be signed.

(After reading the Agreement it was signed.)

The meeting adjourned at 10:45 A. M.

E. A. BEST,
For the Committee.
E. M. BALL,
Gen. Supt., Iron Mines & Quarries.

3646 T. C. I. EXHIBIT 18.

Agreement.

Whereas, The Tenessee Coal, Iron & Railroad Company, a coporation, hereinafter referred to as the Company, is satisfied that a large number of its employees at its ore mines are members of the Brotherhood of Mine Workers of Captive Mines, hereinafter referred to as the Brotherhood, and

Whereas, such employees have indicated their desire to have the undersigned officers and members of the Brotherhood represent them in collective bargaining with the Company, and in the making of this agreement, and

Whereas, the Company is willing to so recognize such representatives on behalf of the members of the Brotherhood, and to make this agreement,

Now Therefore, this agreement entered into on this the 31st day of May, 1937, between said representatives chosen

by and on behalf of the members of the Brotherhood and the Company

Witnesseth:

Section 1.—It is the intent and purpose of the parties hereto that this Agreement will promote and improve industrial and economic relationships between those employees who are members of the Brotherhood and the Company, and to set forth herein the basic Agreement covering rates of pay, hours of work and conditions of employment to be observed between the parties hereto.

It is understood and agreed that this Agreement pertains only to the members of the Brotherhood employed in the ore and limestone mines of the Company located at Muscoda, Wenonah,and Ishkooda, Jefferson County, Alabama.

The term "employee", as used in this Agreement shall not include Foreman, Assistant Foreman or Supervisors in charge of any classes of labor.

Section 2.—Recognition. The Company recognizes the the Brotherhood as the collective bargaining agency for those employees of the Company who are members of the Brotherhood. The Company recognizes and will not interfere with the right of its employees to become members of the Brotherhood. There shall be no discrimination, interference, restraint or coercion by the Company or any of its agent against any members because of membership in the Brotherhood.

The Brotherhood agrees not to intimidate or coerce employees into membership and also not to solicit membership on Company time or plant property.

Section 3.—Wages. It is agreed that the present rates of pay as agreed upon between the Brotherhood and the

Company effective March 16, 1937, shall remain in effect until May 1st, 1938.

Section 4.—Hours of Work. Effective March 16, 1937, there shall be established an eight (8) hour day and a forty (40) hour week. Time and one-half shall be paid for all overtime in excess of eight (8) hours in any one day or for all overtime in excess of forty (40) hours in any one week.

The eight (8) hour-day means eight hours of work in or about the mines of the usual working places for all classes of labor, exclusive of the lunch period, whether they be paid by the day or be paid on the tonnage basis.

A day may be a calendar day or any 24-hour period, and a week may be a calendar week or any five (5) regular 8-hour turns on consecutive days, following by a 48-hour rest period, at the option of the Company.

An employee who is a member of the Brotherhood shall not be paid both daily and weekly overtime for the same hours worked.

Section 5.—Irregular Work. When an employee absents himself from his work for a period of two days without the consent of the Company, other than because of proven sickness or a satisfactory explanation, he may be discharged. When any employee makes a habit of laying off for single days other than because of proven sickness and continues to do so after having been warned by the Company he shall be subject to discharge.

Section 6.—Vacations. Each employee who is a member of the Brotherhood, and who, prior to July 1, 1937, was continuously in the service of the Company five (5) years or more (continuity of service to be based on United States

Steel and Carnegie Pension Fund Rules for Service Continuity) shall receive one week's vacation with pay, such vacation to be taken in a single period. Those who are granted vacations will be paid on their average rate of earnings per hour for the two pay periods immediately preceding their vacation. The total hours of vacation pay will be the average hours they worked per week during that period, but not less than 40 hours nor more than 48 hours.

Vacations will, so far as possible, be granted at times most desired by employees, but the final right to allotment of vacation period is exclusively reserved to the Company in order to insure the orderly operation of the plants.

Section 7.—Seniority. It is understood and agreed that in all cases of promotion and increase or decrease of forces the following factors shall be considered, and where factors (b), (c), (d) and (e) are relatively equal, length of continuous service shall govern.

(a) Length of continuous service.

(b) Knowledge, training, ability, skill and efficiency.

(c) Physical fitness.

(d) Family status; number of dependents, etc.

(e) Place of employment.

Section 8.—Adjustment of Grievances: Should differences arise between the Company and the Brotherhood or its members employed by the Company as to the meaning and application of the provisions of this Agreement, or should any local trouble of any kind arise in any mining

division, there shall be no suspension of work on account of such differences but an earnest effort shall be made to settle such differences immediately in the following manner:

First, between the aggrieved employee, who is a member of the Brotherhood, and the Foreman involved;

Second, between a member or members of the Grievance Committee, designated by the Brotherhood, and the Foreman and Superintendent of the mining division;

Third, between a member or members of the Grievance Committee, designated by the Brotherhood, and the General Superintendent of the Mines;

Fourth, between the representatives of the Brotherhood and the representatives of the Executives of the Company, and

Fifth, by a board consisting of four members, two of whom shall be designated by the representatives signatory hereto, and two by the Company. Failing to agree, they may select an umpire to decide the dispute.

Pending the hearing of disputes, the employees represented by the parties signatory hereto shall not cease work because of any dispute; and a decision reached at any stage of the proceedings shall be binding on both parties thereto; and shall not be subject to reopening by any other party except by mutual agreement.

Specified periods shall be agreed upon between the Grievance Committee and the Superintendent of each Mining Division for the presentation of grievances hereunder. Provided, however, that matters pertaining to discharges or other matters that cannot reasonably be de-

layed until the time of the next regular meeting may be presented at any time in accordance with the foregoing provisions.

The Grievance Committee for each Mining Division shall consist of not less than three employees of that mining Division, and not more than six such employees, designated by the Brotherhood, who will be afforded such time off, without pay, as may be required.

First, to attend regularly scheduled committee meetings.

Second, to attend meetings pertaining to discharges or other matters which cannot reasonably be delayed until the time of the next regular meeting, and

Third, any member of the Grievance Committee shall have the right to visit departments other than his own at all reasonable times for the purpose of transacting the legitimate business of the Grievance Committee, after notice to and permission from his Foreman or his designated representative.

The actual number of members of the Grievance Committee at each Mining Division shall be mutually agreed upon between the Superintendent of the Mining Division and the Brotherhood.

Section 9.—Illegal Suspension of Work. A strike or stoppage of work on the part of the employees represented by the parties signatory hereto shall be a violation of this Agreement, and there shall be no strike or cessation of work until and unless the matter of complaint shall have been submitted and determined by all the methods provided for in this Agreement for the adjustment of disputes.

Section 10.—Management: The management of the mines and the direction of the working forces, including the right to hire, suspend or discharge for proper cause, or transfer, and the right to relieve employees from duty because of lack of work, or for other legitimate reasons, is vested exclusively in the Company, provided that this will not be used for purposes of discrimination against any member of the Brotherhood.

Section 11.—Discharge Cases. In the event a member of the Brotherhood shall be discharged from his employment from and after the date hereof, and he believes he has been unjustly dealt with, such discharge shall constitute a case arising under the method of adjusting grievances herein provided. In the event it should be decided under the rules of this Agreement that an injustice has been dealt the employee with regard to the discharge, the Company shall reinstate such employee and pay full compensation at the employee's regular rate for the time lost. All such cases of discharge shall be taken up within five (5) days from the date of discharge and disposed of as promptly as possible.

Section 12.—Safety and Health. The Company shall continue to make reasonable provisions for the safety and health of its employees at the mines during the hours of their employment. Protective devices, wearing apparel and other equipment necessary to properly protect employees from injury shall be provided by the Company in accordance with the practice now prevailing in each separate mine.

Section 13.—Individual Wage Rates. Where alleged inequalities in wage rates prevail, the matter may be taken up for adjustment with Superintendent of Mining Division, and settlement made on a mutually satisfactory basis.

Section 14.—Future Conferences. Joint conferences between representatives of the Company and of the Brotherhood shall commence in Birmingham, Alabama, on May 31st, 1938, for the purpose of negotiating an Agreement with regard to wages, hours and working conditions, to take effect upon the expiration of this Agreement.

Section 15.—Holidays. The following days shall be considered holidays, during which days there shall be no regular production work; however, it is understood that regular maintenance work will be carried on:

July 4th, Labor Day, and Christmas.

Section 16.—Termination Date. This Agreement shall remain in full force and effect until May 31st, 1938, inclusive.

TENNESSEE COAL, IRON AND RAILROAD COMPANY,
By E. M. BALL,
General Superintendent, Ore Mines.
By J. F. VANCE,
Manager of Industrial Relations.

Representatives of those Employees who are Members of the Brotherhood of Mine Workers of Captive Mines, Ore Mines Division.

STANLEY I. HUDNALL,
Chairman, Executive Committee, Brotherhood of Mine Workers of Captive Mines, Ore Mines Dvision.
E. A. BEST,
Secretary.

T. J. MASSEY,
Committeeman—Muscoda.
PAUL DUMAS,
Committeeman—Muscoda.
J. W. WILSON,
Committeeman—Wenonah.
JOHN McGHEE,
Committeeman—Wenonah.
J. S. PITTS,
Committeeman—Ishkooda.
JULIAN HICKS,
Committeeman—Ishkooda.

3653 T. C. I. EXHIBIT 19.

Agreement.

Whereas, the Tennessee Coal, Iron and Railroad Company, a corporation, hereinafter referred to as the Company, is satisfied that a large number of its employees at its ore mines are members of the Brotherhood of Mine Workers of Captive Mines, hereinafter referred to as the Brotherhood, and

Whereas, such employees have indicated their desire to have the undersigned officers and members of the Brotherhood represent them in collective bargaining with the Company, and in the making of this Agreement, and

Whereas, the Company is willing to so recognize such representatives on behalf of the members of the Brotherhood, and to make this agreement,

Now, Therefore, this agreement entered into on this the 15th day of June, 1938, between said representatives

chosen by and on behalf of the members of the Brotherhood and the Company.

Witnesseth:

Secton 1.—It is the intent and purpose of the parties hereto that this Agreement will promote and improve industrial and economic relationships between those employees who are members of the Brotherhood and the Company, and to set forth herein the basic Agreement covering rates of pay, hours of work and conditions of employment to be observed between the parties hereto.

It is understood and agreed that this Agreement pertains only to the members of the Brotherhood employed in the ore and limestone mines of the Company located at Muscoda, Wenonah, and Ishkooda, Jefferson County, Alabama.

The term "employee," as used in this Agreement shall not include Foreman, Assistant Foreman or Supervisors in charge of any classes of labor, or Watchmen or Patrolman.

Section 2.—Recognition. The Company recognizes the Brotherhood as the collective bargaining agency for those employees of the Company who are members of the Brotherhood. The Company recognizes and will not interfere with the right of its employees to become members of the Brotherhood. There shall be no discrimination, interference, restraint or coercion by the Company or any of its agents against any members because of membership in the Brotherhood.

The Brotherhood agrees not to intimidate or coerce employees into membership and also not to solicit membership on Company time or plant property.

The obligation on the part of both such parties not to exercise any intimidation or coercion shall be deemed to prevent any application to another of such force, either physical, moral or mental, as to induce or constrain him to do against his will something he would not have otherwise done, and not to commit any act of making any person timid or fearful or of deterring such person from some act by threats.

Section 3.—Wages. It is agreed that the rates of pay now in effect shall remain in effect unless changed in accordance with the procedure set forth under Section 15, except that all salaried employees who are members of the Brotherhood shall receive the same reductions or increases in pay as may be applicable from time to time to all other salaried employees of the Compny.

Section 4.—Hours of Work. Eight (8) hours shall constitute a day's work and forty (40) hours shall constitute a week's work. Time and one-half shall be paid for all overtime in excess of eight (8) hours in any one day or for all overtime in excess of forty (40) hours in any one week.

The eight (8) hour day means eight hours of work in or about the mines at the usual working places for all classes of labor, exclusve of the lunch period, whether they be paid by the day or be paid on the tonnage basis.

At the option of the Company (1) a day may be either a calendar day or any twenty-four (24) hour period, and (2) a week may be either a calendar week or any period of five (5) regular eight (8) hour turns on consecutive days, the last of said five (5) turns being followed by a forty-eight (48) hour rest period.

An employee who is a member of the Brotherhood shall not be paid both daily and weekly overtime for the same hours so worked.

Section 5.—Irregular Work. When an employee absents himself from his work for a period of two days without the consent of the Company, other than because of proven sickness or a satisfactory explanation, he may be discharged. When any employee makes a habit of laying off for single days other than because of proven sickness and continues to do so after having been warned by the Company shall be subject to discharge.

Section 6.—Variations. Each employee, who is a member of the Brotherhood, and who, prior to July 1, 1938, was continuously in the service of the Company five (5) years or more (continuity of service to be based on United States Steel and Carnegie Pension Fund Rules for Service Continuity) shall receive one week's vacation with pay, such vacation to be taken in a single period. Those who are granted vacations will be paid on their average rate of earnings per hour for the two day periods immediately preceding their vacation. The total hours of vacation pay will be the average hours they worked per week during that period, but not less than 40 hours nor more than 48 hours.

Vacations will, so far as possible, be granted at times most desired by employees, but the final right to allotment of vacation period is exclusively reserved to the Company in order to insure the orderly operation of the plants.

Section 7.—Seniority. It is understood and agreed that in all cases of promotion and increase or decrease of forces the following factors shall be considered, and where factors (b), (c), (d) and (e) are relatively equal, length of continuous service shall govern.

(a) Length of continuous service.

(b) Knowledge, training, ability, skill and efficiency.

(c) Physical fitness.

(d) Family status; number of dependents, etc.

(e) Place of employment.

Section 8.—Adjustment of Grievances. Should differences arise between the Company and the Brotherhood or its members employed by the Company as to the meaning and application of the provisions of this Agreement, or should any local trouble of any kind arise in any mining division, there shall be no suspension of work on account of such differences but an earnest effort shall be made to settle such differences immediately in the following manner:

First, between the aggrieved employee, who is a member of the Brotherhood, and the Foreman involved;

Second, between a member or members of the Grievance Committee, designated by the Brotherhood, and the Foreman and Superintendent of the mining division.

Third, between a member or members of the Grievance Committee, designated by the Brotherhood, and the General Superintendent of the mines.

Fourth, between the representatives of the Brotherhood and the representatives of the Executives of the Company; and

Fifth, by a board consisting of four members, two of whom shall be designated by the representatives signatory

hereto, and two by the Company. Failing to agree, they may select an umpire to decide the dispute.

Pending the hearing of disputes, the employees represented by the parties signatory hereto shall not cease work because of any dispute; and a decision reached at any stage of the proceedings shall be binding on both parties thereto; and shall not be subject to reopening by any other party except by mutual agreement.

Specified periods shall be agreed upon between the Grievance Committee and the Superintendent of each mining division for the presentation of grievances hereunder. Provided, however, that matters pertaining to discharges or other matters that cannot reasonably be delayed until the time of the next regular meeting may be presented at any time in accordance with the foregoing provisions.

The Grievance Committee for each Mining Division shall consist of not less than three employees of that Mining Division, and not more than six such employees, deignated by the Brotherhood, who will be afforded such time off, without pay, as may be required—

First, to attend regularly scheduled committee meetings,

Second, to attend meetings pertaining to discharges or other matters which cannot reasonably be delayed until the time of the next regular meeting, and

Third, any member of the Grievance Committee shall have the right to visit departments other than his own at all reasonable times for the purpose of transacting the legitimate business of the Grievance Committee, after

notice to and permission from his Foreman or his designated representative.

The actual number of members of the Grievance Committee at each Mining Division shall be mutually agreed upon between the Superintendent of the Mining Division and the Brotherhood.

It is specifically understood that the provisions of this section respecting appeal to an umpire shall not apply to matters which may arise under Section 13 nor to matters which may arise under Section 15.

Section 9.—Illegal Suspension of Work. A strike or stoppage of work on the part of the employees represented by the parties signatory hereto shall be a violation of this Agreement, and there shall be no strike or cessation of work until and unless the matter of complaint have been submitted and determined by all the methods provided for in this Agreement for the adjustment of disputes.

Section 10.—Management. The management of the mines and the direction of the working forces, including the right to hire, suspend or discharge for proper cause, or transfer, and the right to relieve employees from duty because of lack of work, or for other legitimate reasons, is vested exclusively in the Company, provided that this will not be used for purposes of discrimination against any member of the Brotherhood.

Section 11.—Discharge Cases. In the event a member of the Brotherhood shall be discharged from his employment from and after the date hereof, and he believes he has been unjustly dealt with, such discharge shall constitute a case arising under the method of adjusting grievances herein provided. In the event it should be decided under the rules of this Agreement that an in-

justice has been dealt the employee with regard to the dscharge, the Company shall reinstate such employee and pay full compensation at the employee's regular rate for the time lost. All such cases of discharge shall be taken up within five (5) days from the date of discharge and disposed of as promptly as possible.

Section 12.—Safety and Health: The Company shall continue to make reasonable provisions for the safety and health of its employees at the mines during the hours of their employment. Protective devices, wearing apparel and other equipment necessary to properly protect employees from injury shall be provided by the Company in accordance with the practice now prevailing in each separate mine.

Section 13.—Individual Wage Rates. Where alleged inequalities in wage rates prevail, the matter may be taken up for adjustment with Superintendent of Mining Division, and settlement made on a mutually satisfactory basis.

Section 14.—Holidays. The following days shall be considered holidays, during which days there shall be no regular production work; however, it is understood that regular maintenance work will be carried on:

July 4th, Labor Day, and Christmas.

If for any reason work other than regular maintenance work is performed on these days, it shall be paid for at the rate of time and one-half.

Section 15.—Change or Termination. This agreement shall continue until changed or terminated as follows:

(a) Either party may at any time and from time to time give ten (10) days written notice to the other party

of the time for the commencement of a conference of the parties for the purpose of negotiating the terms and conditions of a change of this Agreement, which conference shall be at the office of the Company in Birmingham, Alabama, unless otherwise mutually agreed, and

(b) If, because of a failure to agree, this Agreement is not changed by written agreement entered into by the Company and Brotherhood within twenty (20) days from the giving of said notice, then this Agreement and all of the provisions thereof shall terminate upon the expiration of twenty (20) days from the giving of said notice.

Both parties shall be obligated to attend the conference and negotiate in good faith and the neglect or refusal of the party to whom notice is given to so attend and to participate in the negotiations shall be the equivalent of a failure to agree and the refusal of either party to change any position which it may take as to changes proposed in the negotiations shall not be considered as a lack of good faith in the negotiations."

Section 16.—Notice hereunder shall be given by registered mail to be completed by and at the time of mailing, and if by the Company be addressed to Brotherhood of Mine Workers of Captive Mines, Ore Mines Division, 1404 Woodland Ave, Birmingham, Ala., and if by the Brotherhood be addressed to the Company at Brown-Marx Building, Birmingham, Alabama. Either party may by like written notice change the address to which registered mail notice to it shall be given.

TENNESSEE COAL, IRON AND
RAILROAD COMPANY,
By E. M. BALL,
General Superintendent, Ore Mines.
By J. F. VANCE,
Manager of Industrial Relations.

Representatives of those Employees who are Members of the Brotherhood of Mine Workers of Captive Mines, Ore Mines Division.

J. W. WILSON,
Chairman, Executive Committee, Brotherhood of Mine Workers of Captive Mines, Ore Mines Division.
E. A. BEST
Secretary.
T. J. MASSEY,
Committeeman—Muscoda.
I. V. ROBINSON,
Committeeman—Muscoda.
W. R. MAXWELL,
Committeeman—Wenonah.
STEPHEN JACKSON,
Committeeman—Wenonah.
JAS. A. BAILEY,
Committeeman—Ishkooda.
HAYS JUDKINS, Sr.,
Committeeman—Ishkooda.

3661 T. C. I. EXHIBIT No. 20.

It is agreed that the terms and conditions of the agreement between the Tennessee Coal, Iron & Railroad Company and the Red Ore Miners Union, affiliated with the American Federation of Labor, entered into on June 29, 1939, and concerning which written notice for the commencement of a conference for the purpose of negotiating the terms and conditions of a change of such agreement was given by the union to the company on December 4, 1940, and no agreement having been reached during the period of negotiation, the agreement dated June 29, 1939,

is extended in full force and effect to and including January 31, 1941.

TENNESSEE COAL, IRON & RAILROAD COMPANY,
W. J. KELLY,
Acting Manager of Industrial Relations.
RED ORE MINERS UNION,
J. W. WILSON,
Chairman Executive Committee.

Dated December 23, 1940.

3662 AGREEMENT.

This Agreement, dated June 29, 1939, is between Tennessee Coal, Iron and Railroad Company (hereinafter referred to as the "Company") and Red Ore Miners Union, affiliated with the American Federation of Labor, (hereinafter referred to as the "Union") on behalf of its members employed by the Company in its ore and limestone mines located at Muscoda, Wenonah and Ishkooda, Jefferson County, Alabama.

Section 1. It is the intent and purpose of the parties hereto that this Agreement will promote and improve industral and economic relationships between those employees who are members of the Union and the Company, and to set forth herein the basic Agreement covering rates of pay, hours of work and conditions of employment to be observed between the parties hereto.

It is understood and agreed that this Agreement pertains only to the members of the Union employed in the

ore and limestone mines of the Company located at Muscoda, Wenonah, and Ishkooda, Jefferson County, Alabama.

The term "employees", as used in this Agreement shall not include Foreman, Assistant Foreman or Supervisors in charge of any classes of labor who do not perform any regular work, or Watchmen or Patrolmen, or any salaried employees.

Section 2.—Recognition. The Company recognizes the Union as the collective bargaining agency for those employees of the Company who are members of the Union. The Company recognizes and will not interfere with the right of its employees to become members of the Union. There shall be no discrimination, interference, restraint or coercion by the Company or any of its agents against any members because of membership in the Union.

The Union agrees not to intimidate or coerce employees into membership and also not to solicit membership on Company time or plant property.

The obligation on the part of both such parties not to exercise any intimidation or coercion shall be deemed to prevent any application to another of such force, either physical, moral or mental, as to induce or constrain him to do against his will something he would not have otherwise done, and not to commit any act of making any person timid or fearful or of deterring such person from some act by threats.

Section 3.—Wages. It is agreed that the rates of pay now in effect shall remain in effect unless changed in accordance with the procedure set forth under Section 15.

Section 4.—Hours of Work. Eight (8) hours shall constitute a day's work and forty (40) hours shall constitute

a week's work. Time and one-half shall be paid for all overtime in excess of eight (8) hours in any one day or for all overtime in excess of forty (40) hours in any one week.

The eight (8) hour day means eight hours of work in or about the mines at the usual working places for all classes of labor, exclusive of the lunch period whether they be paid by the day or be paid on the tonnage basis.

At the option of the Company (1) a day may be either a calendar day or any twenty-four (24) hour period, and (2) a week may be either a calendar week or any period of five (5) regular (8) eight hour turns on consecutive days, the last of said five (5) turns being followed by a forty-eight (48) hour rest period.

Any employee who is a member of the Union shall not be paid both daily and weekly overtime for the same hours so worked.

Section 5.—Irregular Work. When an employee absents himself from his work for a period of two days without the consent of the Company, other than because of proven sickness or a satisfactory explanation, he may be discharged. When any employee makes a habit of laying off for single days other than because of proven sickness and continues to do so after having been warned by the Company, he shall be subject to discharge.

Section 6.—Vacations. Each employee, who is a member of the Union, and who prior to July 1, 1938, was continuously in the service of the Company five (5) years or more (continuity of service to be based on United States Steel and Carnegie Pension Fund Rules for Service Continuity) shall receive one week's vacation with pay, such vacation to be taken in a single period. Those who are

granted vacations will be paid at their average rate of earnings per hour for the four pay periods closed and calculated immediately preceding their vacation. The total hours of vacation will be the average hours they worked per week during that period, but not less than forty hours nor more than forty-eight hours.

Vacations will, so far as possible, be granted at times most desired by employees, but the final right to allotment of vacation period is exclusively reserved to the Company in order to insure the orderly operation of the plants.

Section 7.—Seniority. It is understood and agreed that in all cases of promotion and increase and decrease of forces the following factors shall be considered, and where factors (b), c), and (d) are relatively equal, length of continuous service shall govern.

(a) Length of continuous service.

(b) Knowledge, training, ability, skill and efficiency.

(c) Physical fitness.

(d) Place of employment.

Section 8.—Adjustment of Grievances. Should differences arise between the Company and the Union of its members employed by the Company as to the meaning and application of the provisions of this Agreement, or should any local trouble of any kind arise in any mining division, there shall be no suspension of work on account of such differences but an earnest effort shall be made to settle such differences immediately in the following manner:

First, between the aggrieved employee, who is a member of the Union, and the Foreman involved;

Second, between a member or members of the Grievance Committee, designated by the Union, and the Foreman and Superintendent of the Mining Division;

Third, between a member or members of the Grievance Committee, designated by the Union, and the General Superintendent of the Mines.

Fourth, between the representatives of the Union and the representatives of the Executives of the Company, and

Fifth, by a board consisting of four members, two of whom shall be designated by the representatives signatory hereto, and two by the Company. Failure to agree, the matter shall then be appealed to an impartial umpire to be appointed by mutual agreement of the parties hereto. The decision of the umpire shall be final. The expense and salary incident to the services of the umpire shall be paid jointly by the Company and the Union.

Pending the hearing of disputes, the employees represented by the parties signatory hereto shall not cease work because of any dispute; and a decision reached at any stage of the proceedings shall be binding on both parties thereto; and shall not be subject to reopening by any other party except by mutual agreement.

Specified periods shall be agreed upon between the Grievance Committee and the Superintendent of each Mining Division for the presentation of grievances hereunder. Provided, however, that matters pertaining to discharges or other matters that cannot reasonably be delayed until the time of the next regular meeting may be presented at any time in accordance with the foregoing provisions.

The Grievance Committee for each Mining Division shall consist of not less than three employees of that Mining Division, and not more than six such employees, designated by the Union, who will be afforded such time off without pay, as may be required—

First, to attend regularly scheduled committee meetings.

Second, to attend meetings pertaining to discharge or other matters which cannot reasonably be delayed until the time of the next regular meeting; and

Third, any member of the Grievance Committee shall have the right to visit departments other than his own at all reasonable times for the purpose of transacting the legitimate business of the Grievance Committee, after notice to and permission from his Foreman or his designated representative.

The actual number of members of the Grievance Committee at each Mining Division shall be mutually agreed upon between the Superintendent of the Mining Division and the Union.

It is specifically understood that the provisions of this section respecting appeal to an umpire shall not apply to matters which may arise under Section 13 nor to matters which may arise under Section 15.

Section 9.—Illegal Suspension of Work. A strike or stoppage of work on the part of the employees represented by the parties signatory hereto shall be a violation of this Agreement, and there shall be no strike or cessation of work until and unless the matter of complaint shall have been submitted and determined by all the methods provided for in this Agreement for the adjustment of disputes.

Section 10.—Management. The management of the mines and the direction of the working forces, including the right to hire, suspend or discharge for proper cause, or transfer, and the right to relieve employees from duty because of lack of work, or for other legitimate reasons, is vested exclusively in the Company, provided that this will not be used for purposes of discrimination against any member of the Union.

Section 11.—Discharge Cases. In the event a member of the Union shall be discharged from his employment from and after the date hereof, and he believes he has been unjustly dealt with, such discharge shall constitute a case arising under the method of adjusting grievances herein provided. In the event it should be decided under the rules of this Agreement that an injustice has been dealt the employee with regard to the discharge, the Company shall reinstate such employee and pay full compensation at the employee's regular rate for the time lost. All such cases of discharge shall be taken up within five (5) days from the date of discharge and disposed of as promptly as possible

Section 12—Safety And Health. The Company shall continue to make reasonable provisions for the safety and health of its employees at the mines during the hours of their employment. Protective devices, wearing apparel and other equipment necessary to properly protect employees from injury shall be provided by the Company in accordance with the practice now prevailing in each separate mine.

Section 13—Individual Wage Rates. Where alleged inequalities in wage rates prevail, the matter may be taken up for adjustment with Superintendent of Mining Division, and settlement made on a mutually satisfactory basis.

Section 14—Holidays. The following days shall be considered holidays, during which days there shall be no regular production work; however, it is understood that that regular maintenance work will be carried on:

July 4th
Labor Day, and
Christmas.

If, for any reason, work other than regular maintenance work is performed on these days, it shall be paid for at the rate of time and one-half.

Section 15—Change Or Termination. This Agreement shall continue until changed or terminated as follows:

(a) Either party may at any time and from time to time give ten (10) days written notice to the other party of the time for the commencement of a conference of the parties for the purpose of negotiating the terms and conditions of a change in this Agreement, which conference shall be at the office of the Company in Birmingham, Alabama, unless otherwise mutually agreed, and

(b) If, because of a failure to agree, this Agreement is not changed by written agreement entered into by the Company and the Union within twenty (20) days from the giving of said notice, then this Agreement and all of the provisions thereof shall terminate upon the expiration of twenty (20) days from the giving of said notice.

Both parties shall be obligated to attend the conference and negotiate in good faith and the neglect or refusal of the party to whom notice is given to so attend and to participate in the negotiations shall be the equivalent of a failure to agree and the refusal to either party to change any position which it may take as to changes proposed in

the negotiations shall not be considered as a lack of good faith in the negotiations.

Section 16. Notice hereunder shall be given by registered mail to be completed by and at the time of mailing, and if by the Company be addressed to Red Ore Miners Union, J. W. Wilson, c/o Stones' Store, Route 1, Birmingham, Alabama, and if by the Union to be addressed to the Company at Brown-Marx Building, Birmingham, Alabama, Either party may by like written notice change the address to which registered mail notice to it shall be given.

RED ORE MINERS UNION,
By S. E. ROPER,
By J. W. WILSON,
By T. J. MASSEY,
By WILLIS COLE,
By W. R. MAXWELL,
By JOHN McGHEE,
By JAMES A. BAILEY,
By GEORGE E. MOORE.

TENNESSEE COAL IRON AND RAILROAD COMPANY,
By E. M. BALL,
General Superintendent, Ore Mines,
By J. F. VANCE,
Manager of Industrial Relations.

3670 T. C. I. EXHIBIT 21.

(Stamped) Received Oct. 21, 1940, J. F. Vance.

Bessemer, Alabama, October 5th, 1940.

In Re: Ishkooda Local No. 153 of International Union of Mine, Mill and Smelter Workers, District No. Five, an Affiliate of the Bessemer Smelters Council.

Whereas, there now exists a controversy between this Local and the T. C. I. & R. R. Company, at its mines near Bessemer, Alabama, and this controversy is of long standing and deals with the travel pay time of our members employed by the above mentioned Company at its iron ore mines in its production and maintenance departments; and these employees are required to report at the mouth or collar of the mines at 6 o'clock, A. M. in the morning for the purpose of being loaded into man-trips and other methods of entering the mines, they being underground workers; and at the mouth or collar of the mines are checked in at six o'clock and immediately given supplies, tools, equipment and instructions, and then they proceed to their working places, which is approximately 2 miles from the mouth or collar of the mines and down under the ground, which requires and consumes approximately one hour's time before they then arrive at their usual working places; all of this time being spent on the premises of the Company, and after the men are checked in and given supplies, equipment and instructions they then proceed to their working places to perform their usual tasks, after which they return to the mouth or collar of the mines arriving there about four o'clock in the afternoon, and are checked out, thus requiring the employees to be on the premises on duty and in the performance of their work for the Company ten (10) hours per day in the mines, totaling fifty hours per work week, and

Whereas, immediately after our Union was set up, and ever since that time, we have been protesting the travel pay of our members in this mine, and this controversy is based upon the time spent by our members on the premises of the Company each work week and being in excess of the hours required to work under the law, and as we understand it, in violation of the rules and law, and which time amounts to approximately 10 hours per work day, and employees affected by this condition numbering approximately 300. And we further believe that in view of the fact that the Fair Labor Standards Act was passed primarily for the purpose of reducing excessive required hours on the premises of the employer during any given work week, and

Whereas, the Fair Labor Standards Act is recognized and being complied with in many instances without any controversy on the part of the employees, but notwithstanding that fact and in the face of many rulings by the Wage & Hour Board supporting our position and conditions of work, we are still required by the said Company to be on the premises of the Company many hours in excess of the work week, and for which we receive no pay.

Therefore, be it Resolved by this Local in regular meeting assembled that we authorize and request our local and National officers to immediately bring about a correction of these conditions and require the Company to immediately comply with the Fair Labor Standards Act from now on, and also require the Company to pay all back time since the effective date of this law.

And we further authorize our officers to bring this Resolution to the attention of the Hon. Robert P. Amis, Regional Director of the Wage & Hour Division of the Department of Labor in Birmingham, Alabama, and also with Col. Philip B. Fleming, Administrator of the Wage & Hour

Division of the Department of Labor, Washington, D. C. And our officers, both Local and National, are further authorized to take such steps as may be necessary and expedient, by negotiations, or suit, in order to bring about a speedy conclusion of this controversy.

Be it further resolved that copies of this Resolution be immediately forwarded to all interested parties.

This is to certify that the above is a true and exact copy of a Resolution unanimously adopted by Local No. 163 in its regular meeting of October 5th, 1940.

E. A. SISEMORE,
As President Of Local #...
of I. U. M. M. & S. W.

Attested by:

T. J. SIZEMORE,
As Recording Secretary.

(Seal)

3750 - a

Limestone Mining In Muscoda No. 5

E. M. Ball
General Superintendent

A. W. Beck
Chief Engineer

Tennessee Coal, Iron & Railroad Company
Subsidiary United States Steel Corporation
Birmingham, Alabama

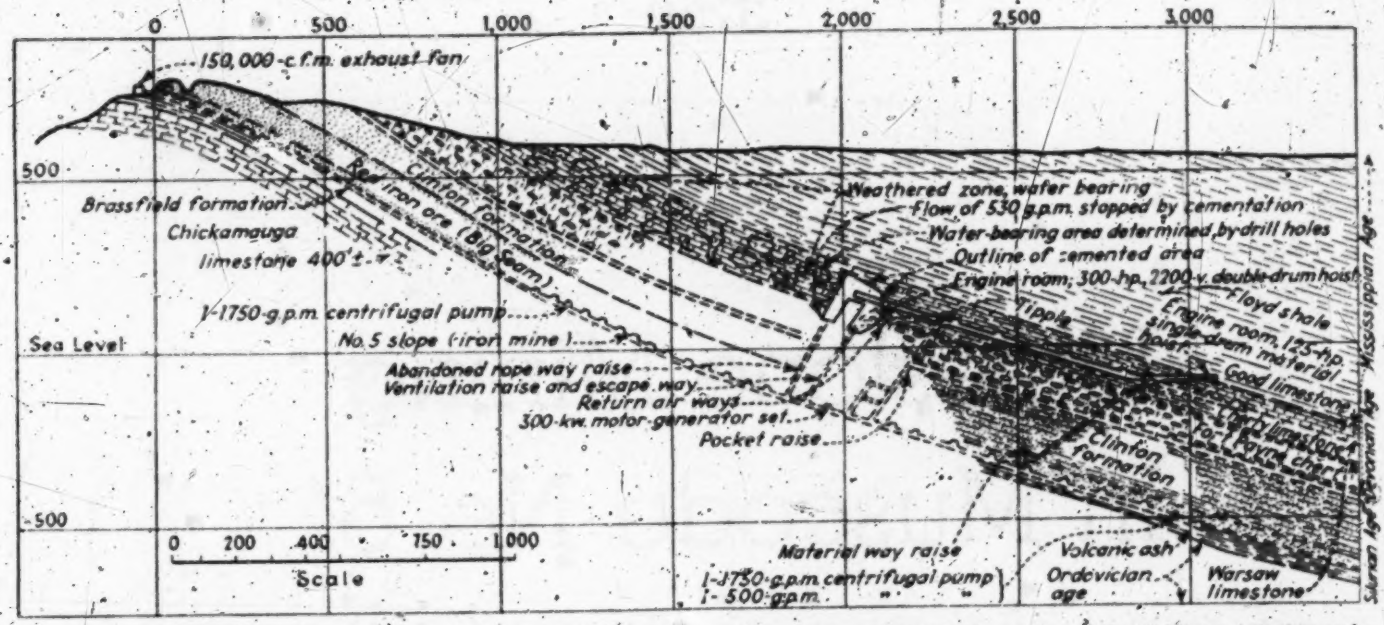


Fig. 1 . . . THE LIMESTONE MINE lies above the temporarily abandoned iron-ore workings of this portion of the Big Seam, dipping under Red Mountain. Access is had through the old No. 5 slope, through which all men, production, and supplies are handled. This cross-section is taken on the center line of the workings

Limestone Mining In Muscoda No. 5

Limestone Mining In Muscoda No. 5

A Unique Underground Operation In the Birmingham District

E. M. Ball
General Superintendent

A. W. Beck
Chief Engineer

Tennessee Coal, Iron & Railroad Company
Subsidiary United States Steel Corporation
Birmingham, Alabama

AT MUSCODA, Ala., 12 miles southwest of Birmingham and a mile southeast of Bessemer, is the No. 5 limestone mine of the Tennessee Coal, Iron & Railroad Company. The property is capable of producing 130 tons of limestone per hour. Of its products, lump stone, 2½ to 7 in. in size, is used in the open-hearth operations at the company's Fairfield steel works. Fine crushed and washed stone, 1¼ to 0.063 in. in size, is calcined at the lime-burning plant and used for lime charges in the open-hearths at the Ensley works. Mine output is shipped to the Fairfield and Ensley plants over the company's own railroad system. The average of analyses of the production for the first seven months of 1937 is given in Table I.

A cross-section on the center line of the mine is given in Fig. 1. The formation in which the limestone occurs is in the Warsaw horizon of the lower Mississippian. It is 130 ft. thick. The limestone beds mined are stratigraphically 330 ft. above the Big Seam of iron ore of the Clinton formation. Immediately above the Clinton and below the workable limestone bed lies approximately 100 ft. of Fort Payne chert, which is composed of layers of chert and cherty limestone. The limestone bed, being badly weathered, is not workable for approximately 1,200 ft. down the dip from the outcrop.

Table I—Average Composition of Limestone Mined, January to July Inclusive, in 1937

Type of Stone	SiO_2 %	Fe_2O_3 and Al_2O_3 %	$CaCO_3$ %	$MgCO_3$ %
Lump	0.60	0 23	98 44	0 22
Crushed and washed	0 91	0 29	98 05	0 26

Prior to April, 1931, the limestone requirements of the company were obtained from Vanns quarry, near Trussville, 14 miles northeast of Birmingham. This source of supply was abandoned due to excessive costs, attendant upon a high percentage of waste material in the stone, hand-loading, and high transportation costs.

Extensive diamond drilling undertaken in 1909 to determine the extent, composition, and structural conditions of the iron-ore seam indicated the presence of the limestone above the Big Seam. To prove its extent and grade and to locate the lower limit of weathering, seventeen diamond-drill holes were put down from the surface at Muscoda in 1926. This drilling indicated the presence of a deposit of high-grade limestone 40 ft. thick; also that future developments must be confined to the unweathered stone. The weathered Warsaw and Fort Payne formations at iron mines, where the ore pillars have been extracted in territory underlying the zone of weathering, are heavily water-bearing, as indicated by inflows of over 3,000 g.p.m. for considerable periods.

The temporarily abandoned slope of No. 5 iron mine was used for development of the limestone mine (Fig.

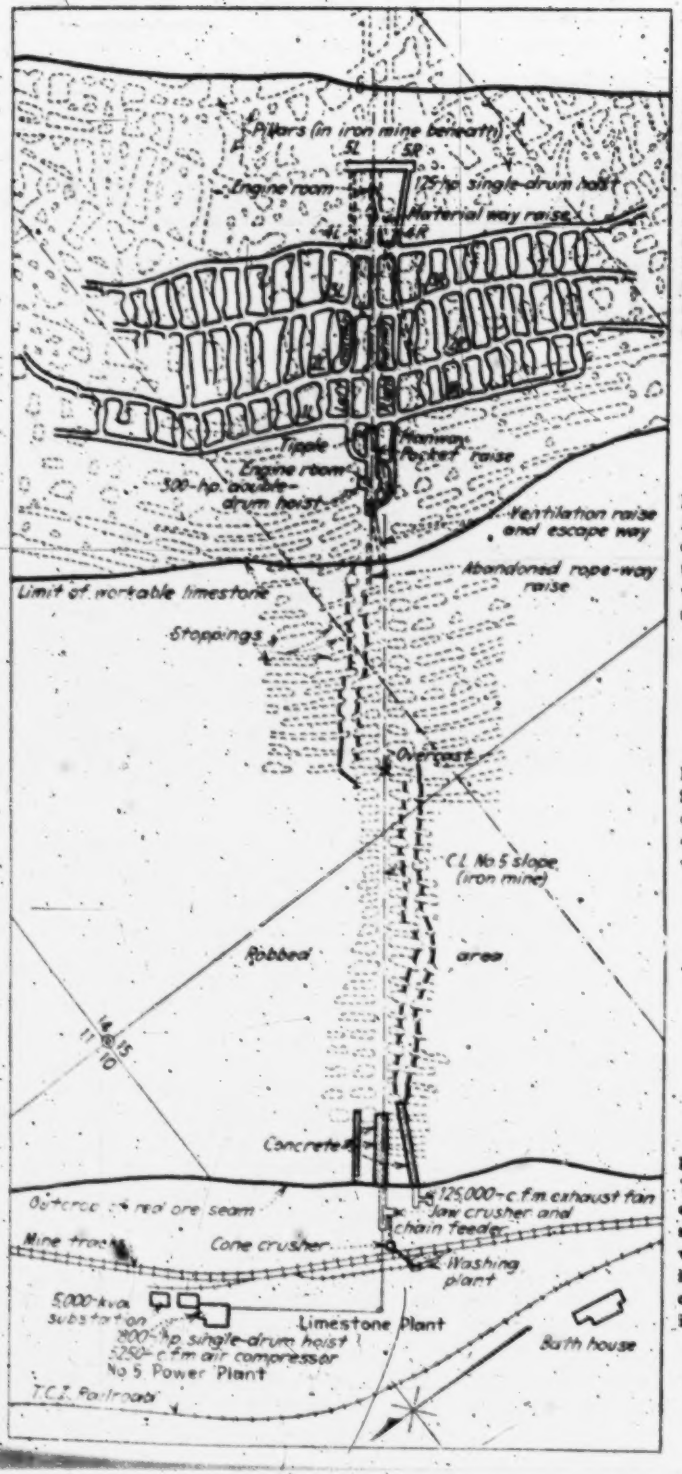


Fig. 2 . . . (left) WORKINGS of the limestone mine are here, in this plan view, seen superimposed over the old iron-ore workings, which are sketched in broken lines. The limestone bed is not workable between the outcrop and a point 1,200 ft. down the dip, owing to weathering

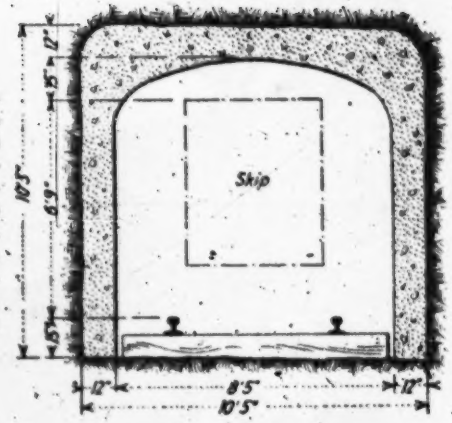


Fig. 3 . . . (top right) A LINING of reinforced concrete, of the cross-section shown here, is provided in No. 5 iron ore slope for a distance of 210 ft. from the portal

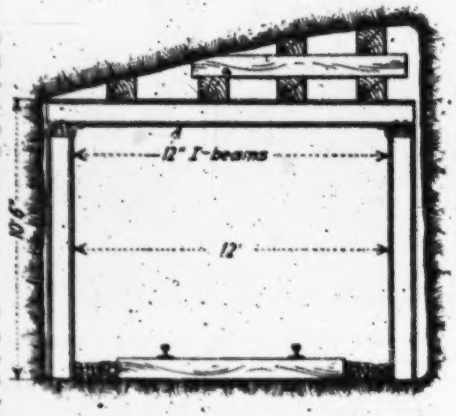


Fig. 4 . . . (right) STEEL SETS such as this are used to support the ground in the ore slope where the ground is heavy

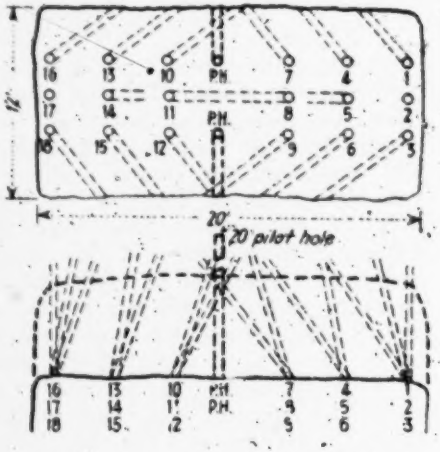


Fig. 5 . . . (right) TYPICAL DRILL ROUND, employing the center cut shown, that is used in advancing level faces and in stopes. Maximum depth of hole is 10 ft. The cut is followed by slabbing rounds

2). Both the limestone bed and the iron ore seam below it have a dip of 17 deg. An 8x12-ft. incline for use as a man-and-material way was raised from the ore slope at an angle of 36½ deg. with the horizontal to intersect the lower edge of the limestone bed. From this intersection, a 10x20-ft. slope was raised a distance of 900 ft. in the base of the workable limestone. Simultaneously, two additional raises were started from the ore slope. The upper raise, which was to be used as a ropeway, was located so as to come below the zone of weathering, as indicated by the diamond-drill cores, and was approximately 2,000 ft. horizontally from the outcrop of the iron-ore seam. The depth of overlying cover at this point was 400 ft. Driving of this raise continued for a distance of 259 ft., or to a point 83 ft. below the limestone bed. At this location, drilling encountered weathered limestone and chert and developed a flow of 530 g.p.m., which made it advisable to stop the work. Work in the lower raise 60 ft. down the ore slope was also discontinued at this time. This raise was to be used as a transfer pocket between the limestone and ore slopes.

Attempts were made to stop the flow of water by cementation, through a series of long drill holes, radiating from the upper part of the limestone slope. After cement had been injected into the area by means of pressure pumps, the inflow of water from the rope raise was reduced to 20 g.p.m. It was found, however, that the territory ahead of the rope raise and the limestone slope was badly weathered. Many cavities filled with mud and clay could not be replaced with cement, making it unsafe to continue work because of the probable inflow of large quantities of mud and water. The ropeway was therefore abandoned after a 12-ft. plug of broken rock was placed in its upper end and filled with cement between the fragments. An inflow of approximately 250 g.p.m. in the upper end of the limestone slope was substantially reduced, after additional cementation work had been done in the back and sides of the slope.

Plans were changed and it was decided to place the auxiliary hoist for handling stone in the limestone slope, instead of in the ore slope below, as intended originally. A new pocket

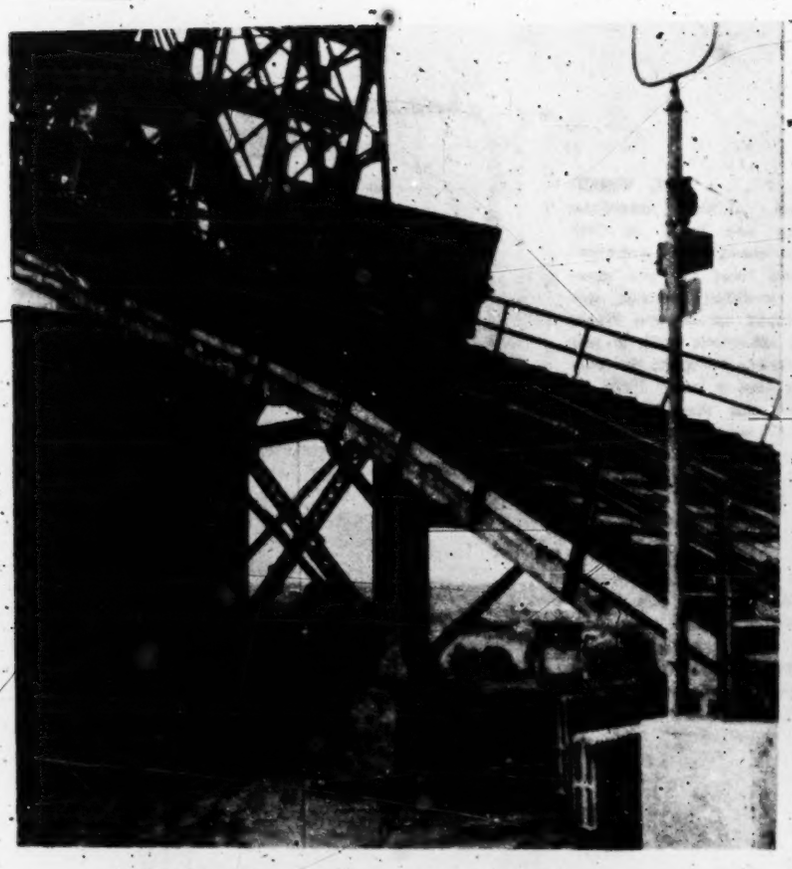
Limestone Mining In Muscoda No. 5

THE LIMESTONE PLANT stands at the mouth of Muscoda No. 5 ore slope. Two products are made, lump stone ranging from 2 to 7 in. in size and finer material ranging from 1¼ in. to 0.063 in.

E. M. Ball
General Superintendent

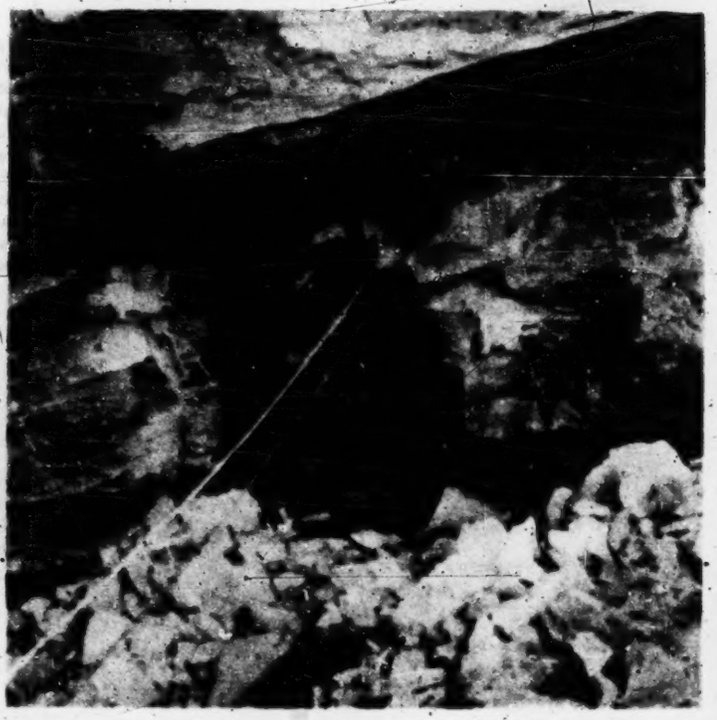
A. W. Beck
Chief Engineer

Tennessee Coal, Iron & Railroad Company
Subsidiary United States Steel Corporation
Birmingham, Alabama



TEN-TON SKIP entering the single-track tipple at the mouth of Muscoda No. 5 ore slope. The limestone falls into a 125-ton flat-bottomed pocket lined with rails. From this it is fed by a chain feeder to the primary crusher

IN A BACK STOPE. Drilling is under way, with the tripod-mounted machine standing on the muck. The tail block of the scraper used in mucking out the stone is seen fastened to the back



raise was driven from a point 150 ft. down the ore slope. The old pocket raise was completed and used for ventilation and escapeway purposes. The ventilation and pocket raises are both driven on an angle of 60 deg. with the horizontal. Four pairs of mining levels, 12x20 ft. in cross-section, were turned at right angles from the slope. These are placed at 200-ft. intervals and driven on a grade of 1.5 per cent in favor of the load.

No. 5 ore slope is lined with reinforced concrete for a distance of 210 ft. from the portal (Fig. 3). This lining is of single-arch construction with side walls 8 in. thick. The compartment is 8 ft. 5 in. wide and 10 ft. 5 in. high above the top of the ties at the center of the arch. No one is allowed to walk the slope while stone is being hoisted or men and material are being handled. Inspection and maintenance of slope track is done after the shift is finished.

The man-and-material way enters the limestone mine at a point 2,850 ft. on the incline from the portal of No. 5 ore slope. Its intersection with the limestone slope is under 650 ft. of cover. The ore slope, the man-and-material way, and the limestone slope are electrically lighted. To permit signaling, a $\frac{1}{8}$-in. messenger wire is provided in the first two, extending along the left rib of the ore slope and the right rib of the man-and-material way and suspended on insulated hangers. Signals are given with a brass rod, connected by a flexible shunt to the skip in the ore slope, and to the larry in the man-and-material way, respectively. When this is touched to the messenger wire, it completes a 22-volt circuit through hoisting rope and rails, sounding a signal on the hoist engineer's platform. When men are being hoisted in the ore slope, a skip tender is required to ride the front end of the skip with the signaling rod in his hand, so that he can signal the hoist engineer should the necessity arise. When the men are being lowered, the skip tender rides the back end of the skip in a specially provided chair. In hoisting and lowering men in the man-and-material way to the limestone mine, the same procedure is adopted, with the exception that no chair is provided. The man handling the signal rod rides the front end of the larry when it is being hoisted and the rear end during lowering.

MINING LEVELS, a face of one of which is here seen, are driven with wet drifters mounted on tripods. A center cut, illustrated in Fig. 5, is used, followed by slabbing rounds. A grade of 1.5 per cent in favor of the load is maintained

Approximately 40 men are handled in the skip on the ore slope and 20 men on the larry in the man-and-material way. Men walk to their respective working places from the lower end of the limestone slope. Materials and mine supplies are handled by special larries in the ore slope and are transferred through the

TEN-TON SKIP entering the single-track tipple at the mouth of Muscoda No. 5 ore slope. The limestone falls into a 125-ton flat-bottomed pocket lined with rails. From this it is fed by a chain feeder to the primary crusher

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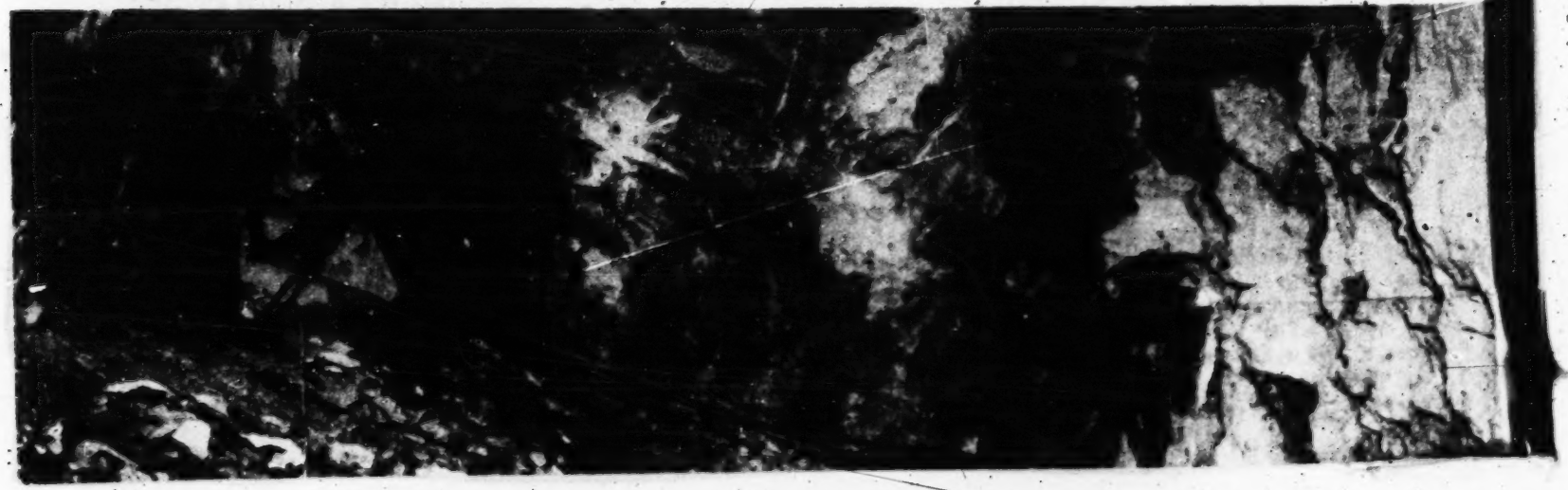
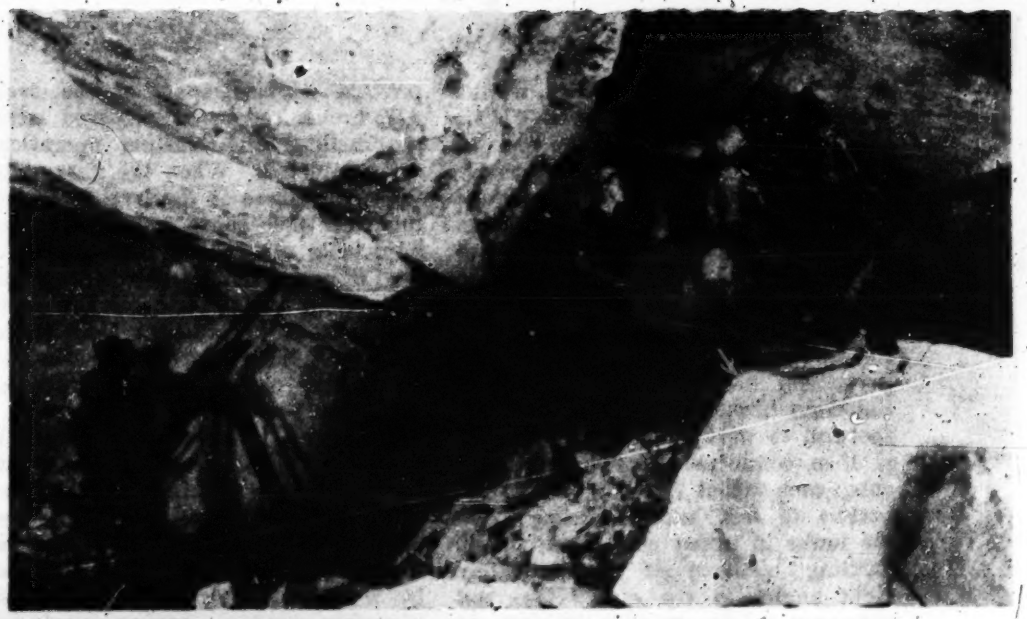


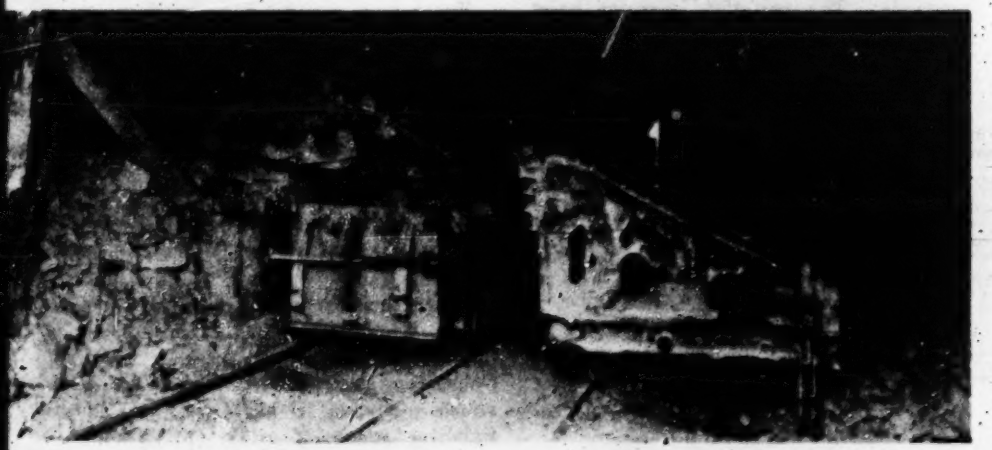
material way to the limestone slope. The man-and-material way hoist is a single-drum unit equipped with post brakes and driven by a 125-hp. motor, magnetically controlled.

In that part of the ore slope where the top is heavy, support is provided by sets consisting of two legs and a collar framed from 12-in. I-beams. (Fig. 4). In other sections, 12-in. square props are placed on each side of the slope track. No timbering is required in the man-and-material way, but 12-in. square props are used in the center of the limestone slope between tracks.

Drills used for driving the faces of mining levels and in stoping are water-type drifters, having a 4-in. cylinder and weighing 186 lb. For



A SIDE VIEW of drilling operations in a back stope. The 20 ft. of limestone remaining in the back after the breast stoping is completed is taken out in two successive cuts



MUCKING LIMESTONE by scraper from a stope into a 3¼-ton mine car on one of the levels. The double-drum scraper hoist is mounted on standard-gage trucks, weighs 14 tons complete, and is driven by a 50-hp. motor

plug drilling and miscellaneous purposes, a light jackhammer-type drill is used. The heavy drills are mounted on tripods and use 1½-in. hollow-round steel. The standard four-point bit is used for all starters; the Carr chisel bit on the longer steels. All drill steel is made up in sets of four pieces each, ranging from 3 ft. to 10 ft., with bit gages ranging from 2¼ in. to 1⅞ in.

A center cut, followed by slabbing rounds, is used in driving levels and stopes, 10 ft. being the maximum depth of hole (Fig. 5 and Table II). Pilot holes 20 ft. long are drilled ahead of working faces, to give advance notice of water-bearing joints or openings. Air is supplied from the 2-in. heading air line through a 1½-in. hose to a line lubricator and through a short section of 1-in. hose to the drill. Water is fed to the drills through a ¾-in. hose. The explosive used is a water-resisting ammonia dynamité, in cartridges 1½ x 6 in., with a stick count of 110 per 50-lb. case, and a bulk strength of approximately 42 per cent. All blasting is done with fuse and cap, and only at the end of the shift.

Stope openings 16x12 ft. high are turned off the mining levels on 60-ft. centers. After one of these openings has advanced 20 ft. from the upper

plug drilling and miscellaneous purposes, a light jackhammer-type drill is used. The heavy drills are mounted on tripods and use 1¼-in. hollow-round steel. The standard four-point bit is used for all starters; the Carr chisel bit on the longer steels. All drill steel is made up in sets of four pieces each, ranging from 3 ft. to 10 ft., with bit gages ranging from 2¼ in. to 1⅞ in.

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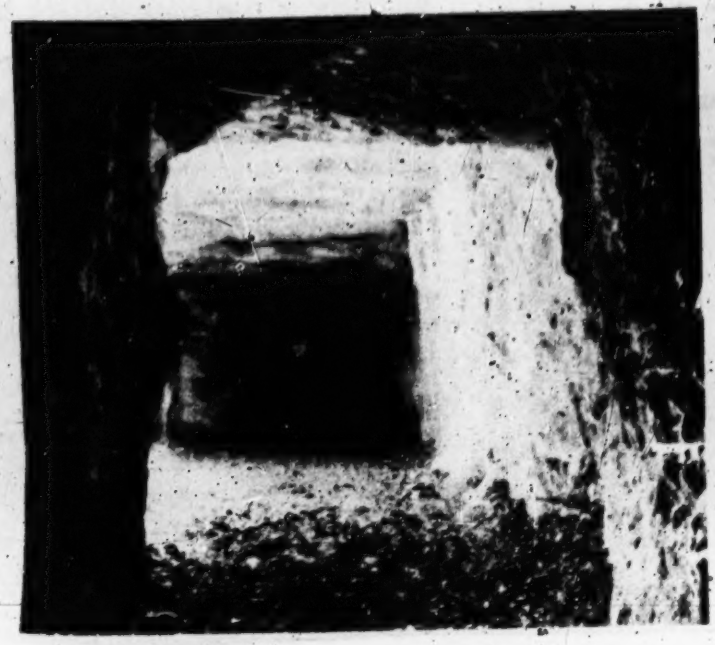


A COMPLETED STOPE. Stopes are turned off the mining levels in the bottom of the limestone on 60-ft. centers. After they are driven to the next level above, 20 ft. of good stone remains in the back, which is then back-stoped in two successive cuts. The level interval is 200 ft.

DUMPING one of the 3¾-ton mine cars into a skip of the same capacity on the limestone slope. This is done by means of an air cylinder beneath the tracks

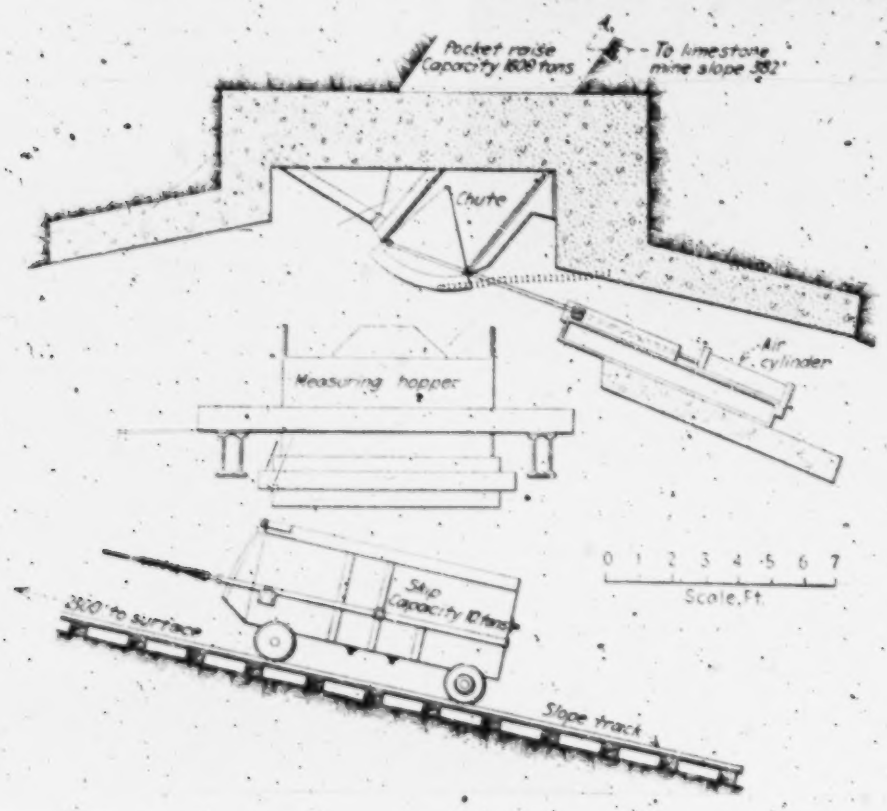
ft. and driven to within 15 ft. of the lower rib of the level above. It is then narrowed to 8 ft. for the remaining distance and broken through near the hanging wall to ventilate the stope properly.. Mining levels are driven in the bottom of the limestone bed and 20 ft. of good limestone remains in the back of the stope. This is mined by back-stoping at the lower end of the stope until the lower part of the permanent hanging wall is reached. Sufficient broken stone is left on the footwall to work upon. Back-stoping is then conducted in two successive cuts, each about 10 ft. thick from bottom to top, and advancing from the lower to upper end of the stope. Drilling is done at approximately right angles to the dip. It is not necessary to use wooden staging, as drilling and quarrying are done on top of the broken stone left in the stope. Enough stone is removed to provide working space at the back. All broken stone is removed after the drilling and blasting operations are completed. When the next stope toward the face of the level is broken into the level above, a stopping and adjustable air regulator is placed in the upper end of the worked-out stope. This allows the ventilation to be advanced towards the face of the level and also provides means by which any gas in the worked-out stope can be removed.

All stone in levels and stopes is loaded by double-drum scraper hoists into 3.75-ton standard-gage, roller-bearing, steel tram cars. Scraper hoists are equipped with two loose drums driven through jaw clutches by a 50-hp., 250-volt, direct-current, reversing motor, having contactor controls. The complete scraper hoist is mounted on standard-gage trucks and weighs 14 tons. The front end of the machine is equipped with horizontal and vertical rollers to guide the rope to the drum face. Steel-center ropes, $\frac{7}{8}$ in. in diameter, are used for in-haul and out-haul operations. The scraper itself weighs 2,700 lb., is bottomless, and holds $1\frac{1}{2}$ cu.yd. It is 54 in. wide, 54 in. long, and 34 in. high, with teeth in the back end. In mining, the stone is scraped from the stopes, and the advancing faces over steel loading ramps made from 15-in. channels 18 ft. long and bolted together. The toe of the channel is set in a hitch in the footwall. The other end of the channel extends over the loading track and rests on a 12-in. square timber bent. This bent is placed at proper height for stone from scrapers to fall into the tram cars.

Tram cars run by gravity from the loading ramps to air-operated horn-type tipples placed at the limestone slope. Empties are returned to loading ramps by mules. Tracks are standard gage of 60-lb. rail, laid on 7x9-in. by 8-ft. creosoted ties. Tram cars standing in the air-operated tipples are dumped directly into 3.75-ton balanced skips in the limestone slope.

Skips are handled by a double-drum hoist, driven by a 300-hp., 60-cycle, 2,300-volt, alternating-current motor, operating at 600 r.p.m. through single-reduction gears, to develop a hoisting speed of 1,300 ft. per minute. The drums are 8 ft. in diameter, with a 5 ft. 8 in. face, and are wound with 6x21 $1\frac{1}{8}$-in. lang-lay hoisting rope. The hoist is equipped with magnetic control, hydraulic-control post brakes and clutches, and Lilly hoist controllers with track limit switches and visible skip-position indicator. The engine room for the hoist is located at the upper end of the limestone slope. Skips dump over a double-track steel tipple into the pocket raise to the ore slope below.

Stone is drawn into a 10-ton measuring hopper ffom the bottom of the pocket by means of an air-operated



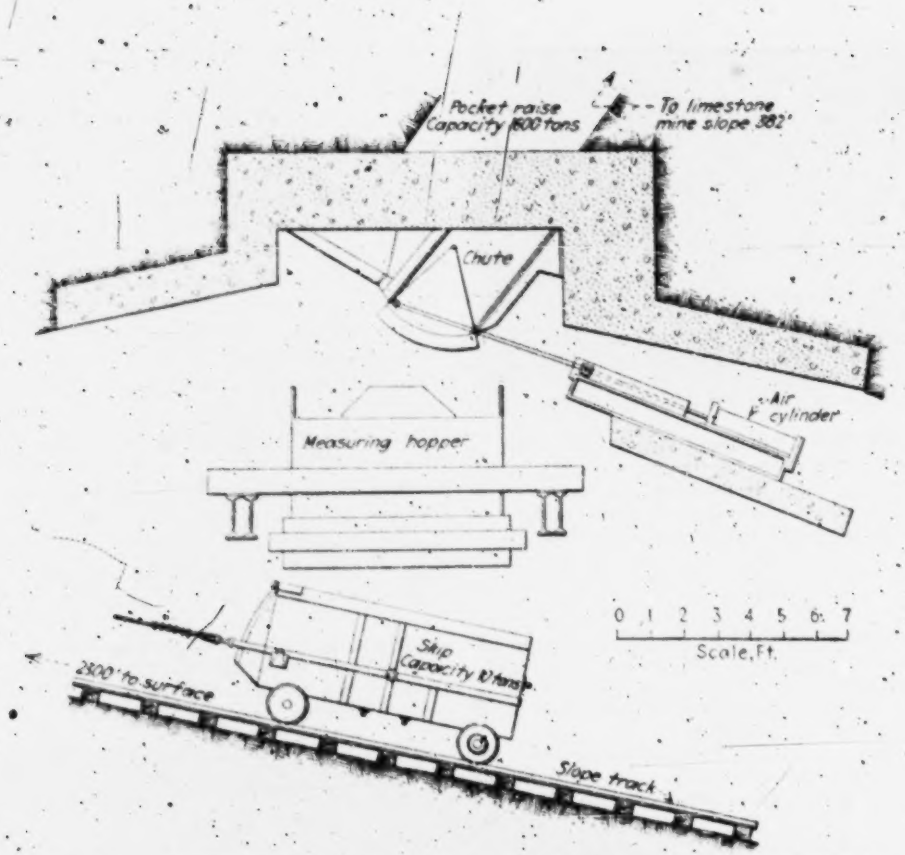


Fig. 6 . . . STONE MINED in Muscoda No. 5 is delivered to a pocket raise holding 1,800 tons, from which it is drawn through an undercut gate into the measuring hopper shown for loading the 10-ton skip that is hoisted on No. 5 ore slope

Table II—Drilling and Blasting Data to Accompany Fig. 5

Kind of Hole	Hole Number	Sticks Powder	Feet Fuse	Number Caps	Sheets Paper	Depth Hole
Upper	1	18	8	1	½	9
Middle	2	12	8	1	½	9
Lower	3	18	8	1	½	9
Upper	4	12	8	1	½	9
Middle	5	10	8	1	½	7
Lower	6	12	8	1	½	9
Upper	7	12	8	1	½	9
Middle	8	10	8	1	½	7
Lower	9	18	8	1	½	9
Upper	10	12	8	1	½	9
Middle	11	10	8	1	½	7
Lower	12	18	8	1	½	9
Upper	13	10	8	1	½	9
Middle	14	10	8	1	½	7
Lower	15	12	8	1	½	9
Upper	16	18	8	1	½	9
Middle	17	12	8	1	½	9
Lower	18	18	8	1	½	9
Totals	18	242	144	18	9	154
Pilot	P.H.	0	0	0	0	20

slope. Empties are returned to loading ramps by mules. Tracks are standard gage of 60-lb. rail, laid on 7x9-in. by 8-ft. creosoted ties. Tram cars standing in the air-operated tipples are dumped directly into 3.75-ton balanced skips in the limestone slope.

Skips are handled by a double-drum hoist, driven by a 300-hp. 60-cycle, 2,300-volt, alternating-current motor, operating at 600 r.p.m. through single-reduction gears, to develop a hoisting speed of 1,300 ft. per minute. The drums are 8 ft. in diameter, with a 5 ft. 8 in. face, and are wound with 6x21 1⅛-in. lang-lay hoisting rope. The hoist is equipped with magnetic control, hydraulic-control post brakes and clutches, and Lilly hoist controllers with track limit switches and visible skip-position indicator. The engine room for the hoist is located at the upper end of the limestone slope. Skips dump over a double-track steel tipple into the pocket raise to the ore slope below.

Stone is drawn into a 10-ton measuring hopper from the bottom of the pocket by means of an air-operated undercut gate (Fig. 6). The doors in the bottom of the hopper are tripped by an air cylinder. From the measuring hopper, the stone is delivered into a standard-gage, 10-ton skip equipped with roller bearings and three-point suspension. The skip is hoisted, by a single-drum electric hoist, to the surface tipple 2,400 ft. away. A round trip is made in three minutes.

Water from the mine drains to two sumps in the ore slope below, and is pumped to the surface by two motor-driven centrifugal pumps, handling 1,750 g.p.m. and operating in relay. For use in an emergency, a 500-g.p.m. motor-driven centrifugal pump sends water to a main pumping station at No. 4 iron mine.

UNDERGROUND CREW of Muscoda No. 5 limestone mine. These men won the Sentinels of Safety trophy for 1936 for the non-metallic group in the National Safety competition with a record of 114,701 accident-free man-hours

A. W. Beck
Chief Engineer

Tennessee Coal, Iron & Railroad Company
Subsidiary United States Steel Corporation
Birmingham, Alabama

II. *Ventilation and other auxiliary operations are described*

The crew wins National Safety trophy

▶ *DEVELOPMENT and mining practice at Muscoda No. 5 was dealt with by Messrs. Ball and Beck in the first part of this article, published in the December issue. The present concluding installment completes the picture of the work. The property is interesting on several counts, particularly because of the unique relationship of the limestone and the older iron-ore workings and the occurrence of methane*

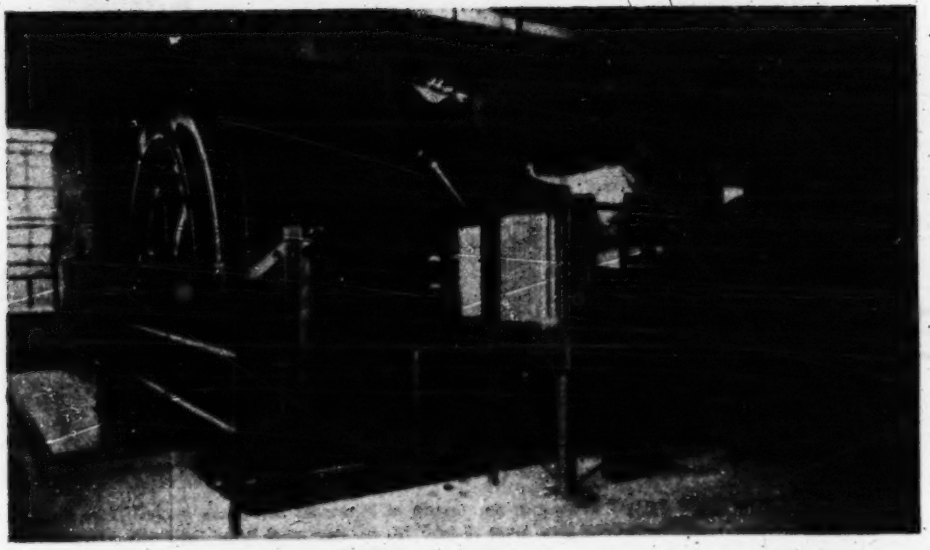
DURING the development of the limestone mine, ventilation was satisfactorily maintained by means of a booster fan of 50,000-c.f.m. capacity, installed on the ore slope near the foot of the material way to the mine. After the mine had been in operation four months, a large feeder of methane gas was unexpectedly encountered in the 2d Right Level. This feeder and a small one in the 4th Right Level were supplying approximately 250 cu.ft. of methane per minute, which, with the gas from the remaining workings, was sufficient to call for the provision of additional ventilation, for which facilities were promptly installed.

The limestone mine and two ore mines of the Muscoda division are ventilated by means of an 8 ft. by 3 ft. 6-in. double-inlet exhaust fan. This fan is on the surface near the portal of the limestone mine (Fig. 7), and is exhausting 125,000 c.f.m. of air against a 3.4-in. water gage. It is driven by a 125-hp., 2,300-volt, alternating-current motor through friction clutches and multiple V-belts. An auxiliary 80-hp. gasoline engine is used as a standby unit and is put in operation only in case of an electric-power interruption. The slowing down of the fan causes a blinker system to go out, at the same time sounding an automatic signal to warn the attendant. Twenty-five thousand cubic feet of air per minute is required to ventilate the limestone mine, the remainder being used for ventilating the two adjoining ore mines. The ventilating current for the limestone mine comes down the ore slope, up the material way to the limestone slope, and is split into two currents at this point to ventilate workings on either side of the mine. The two splits come together again in the airway to the ventilation raise, thence through an overcast on the ore slope into the return airway paralleling the ore slope. Blower fans discharging 2,800 c.f.m. of air through 12-in. flexible tubing are used in each mining level to maintain ventilation between the last crosscut and the face.

A certified gas inspector makes a complete examination of all working places in the mine before each shift goes on. This is necessary because feeders of methane gas seep into the mine through joint planes in the limestone bed.

All compressed air for use in the limestone mine and the two ore mines of the Muscoda division is supplied from three electrically driven compressors situated on the surface (Fig. 8). One compressor at No. 5 engine house has a capacity of 5,250 cu.ft. of free air per minute. This compressor is equipped with a five-step automatic volume control, and delivers air through a 12-in. line into the limestone mine. The other two compressors, of 4,000-cu.ft. capacity, are at the No. 4 ore mine engine house. They are connected to the 12-in. air line by an 8-in. line.

The ore slope and limestone slope



THE SURFACE HOIST serving Muscoda No. 5 ore slope has a single 10 x 13-ft. drum and is driven by an 1800-hp. motor through single-reduction gears. It develops a hoisting speed of 2000 ft. per minute

FAN HOUSE and air duct near the portal of No. 5 ore slope. The fan is an 8x3½-ft. double-inlet exhaust unit of 125,000 c.f.m. capacity and is driven by a 125-hp. motor

are illuminated with 200-watt, 220-volt, alternating-current lamps, suspended from brackets placed at intervals of 100 ft. A floodlight at the top of the man-and-material way furnishes its illumination. In the mining levels, electric lights are connected to the 250-volt, direct-current mechanical-loader circuit.

Mine-type telephones are located in each mining level and are connected to vital points both on surface and underground. When hoisting or lowering men, the skip tender communicates by telephone with the hoisting engineer before the regular hoisting or lowering signals are given.

The single-track surface tipple is of steel construction and has a flat-bottomed pocket of 125 tons' capacity. This pocket is lined with rails to take up the shock of the stone falling when the skip dumps. The material falling into the pocket forms its own hopper. Stone is fed from the pocket by a chain feeder, into a 40x48-in. all-steel primary jaw crusher set to produce a 7-in. product. (Fig. 10). The product from the primary crusher is discharged to a 36-in. inclined belt conveyor. A chain drag decreases the impact of the stone as it falls on the conveyor belt. A magnetic head pulley 30 in. in diameter removes tramp iron before the conveypr discharges to a 4 ft. by 8 ft. 6-in. vibrating scalping screen, which has 2-in. square openings.

THIS AIR COMPRESSOR, of 5250 cu. ft. capacity, is equipped with five-step automatic volume control and delivers air into the limestone line through a 12-in. line

Stone which passes over the scalping screen is discharged by chute directly into railroad cars on a siding, ready for shipment to the company's open-hearth plant. The flow of stone in the chute is controlled by an air-operated gate, allowing the spotting of cars without delay to the plant. Undersize stone from the scalping screen goes by gravity to a 5½-ft. cone crusher set at 1¼-in. opening. The product from this crusher is delivered by chute to a 24-in. inclined belt conveyor, which leads to the top of the washing plant. This conveyor discharges to a 4 ft. by 8 ft. 6-in. double-deck vibrating and washing screen with 1¼-in. and ¾-in. openings, respectively, on the top and bottom deck. The three sizes of stone produced are next fed to a similar screen with ¼-in. and 0.063-in. openings. Pressure water sprays are used on both screens, thoroughly washing the stone and removing the fines. Stone from the two screens is discharged into railroad cars for shipment to the company's lime-burning plant. A flap gate controls the flow of stone through two chutes, so that loaded and empty cars can be handled without delay to the plant.

The fine material passing through the screen is discharged into a conical steel sump tank with all wash water. A 4-in. sand pump handles it from here to a 90,000-gal. conical steel

settling tank 500 ft. distant. The tailings from this tank flow into a waste pond. The elevation of the tank allows the clear water overflow to return by gravity to the washing system. Washer plant and car drippage is collected on a concrete drip pad and is automatically pumped back into the settling tank and water recovery system.

The plant is of steel construction throughout. Crusher foundations are of concrete. The inclosed parts of the plant have copper-bearing, corrugated metal siding and roofing.

An automatic-sequence starting and stopping system is used for all plant motors, which are controlled from a main switchboard in the control room. Local pushbutton switches also are used. Should a motor overheat, it actuates a thermal relay and stops all plant machinery in sequence.

The main surface hoist has a single drum keyed to the shaft, the drum being 10 ft. in diameter with a 13-ft. face. It is driven by an 1,800-hp., 60-cycle, 2,300-volt, alternating-current motor, operating at 360 r.p.m.

Table III—Miscellaneous Operating Statistics, First Eight Months of 1937

Average number of men per shift	75
Per cent of white employees	80
Per cent of colored employees	20
Tons of stone per man per eight-hour shift (producing labor)	21.2
Tons of stone per man per eight-hour shift (entire mine crew)	8.2
Tons of stone per pound of explosive	1.2
Kilowatt-hours per ton of stone mined:	
Scraper operations	0.825
Main surface hoist	4.180
Limestone slope hoist	0.740
Crushing, screening and washing	1.380
Pumping	1.210
Ventilation	3.050

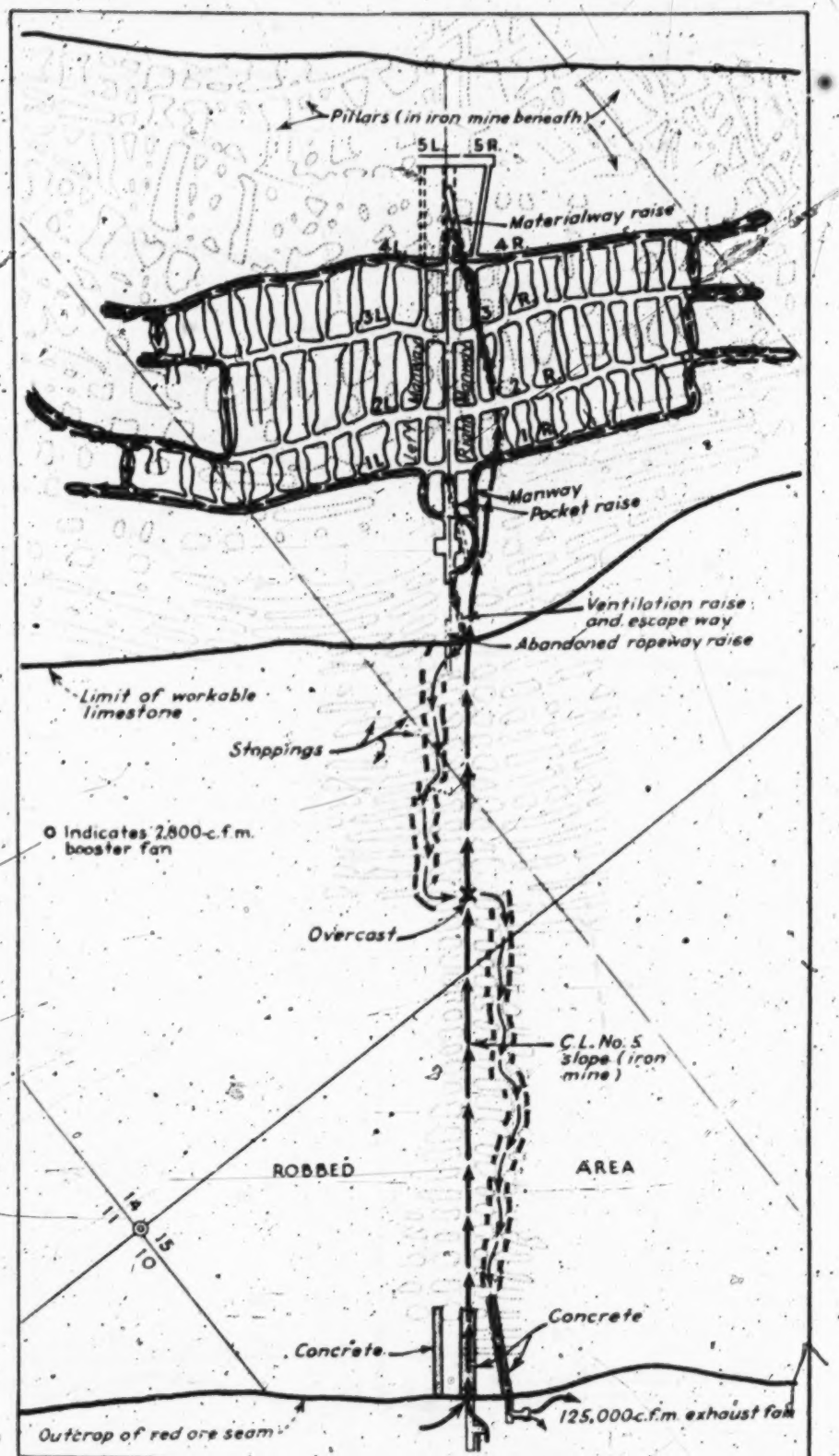


Table III—Miscellaneous Operating Statistics First Eight Months of 1937

Average number of men per shift	73
Per cent of white employees	80
Per cent of colored employees	20
Tons of stone per man per eight-hour shift (producing labor)	21 2
Tons of stone per man per eight hour shift (entire mine crew)	8 2
Tons of stone per pound of explosive	1 2
Kilowatt-hours per ton of stone mined for:	
Scraper operations	0 825
Main surface hoist	4 180
Limestone slope hoist	0 740
Crushing, screening and washing	1 380
Pumping	1 210
Ventilation	3 050

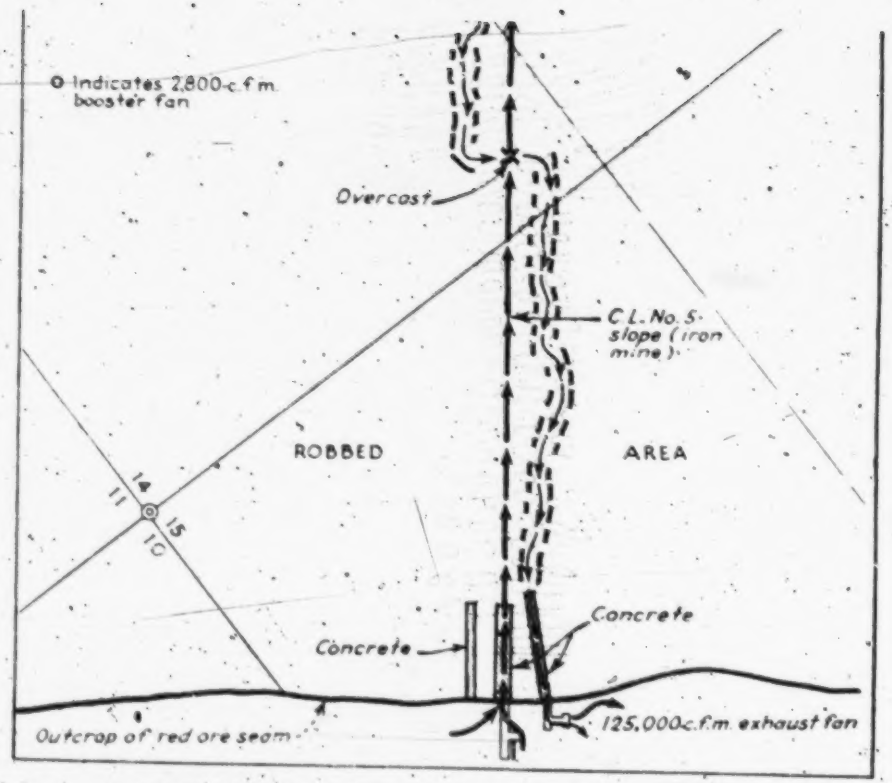
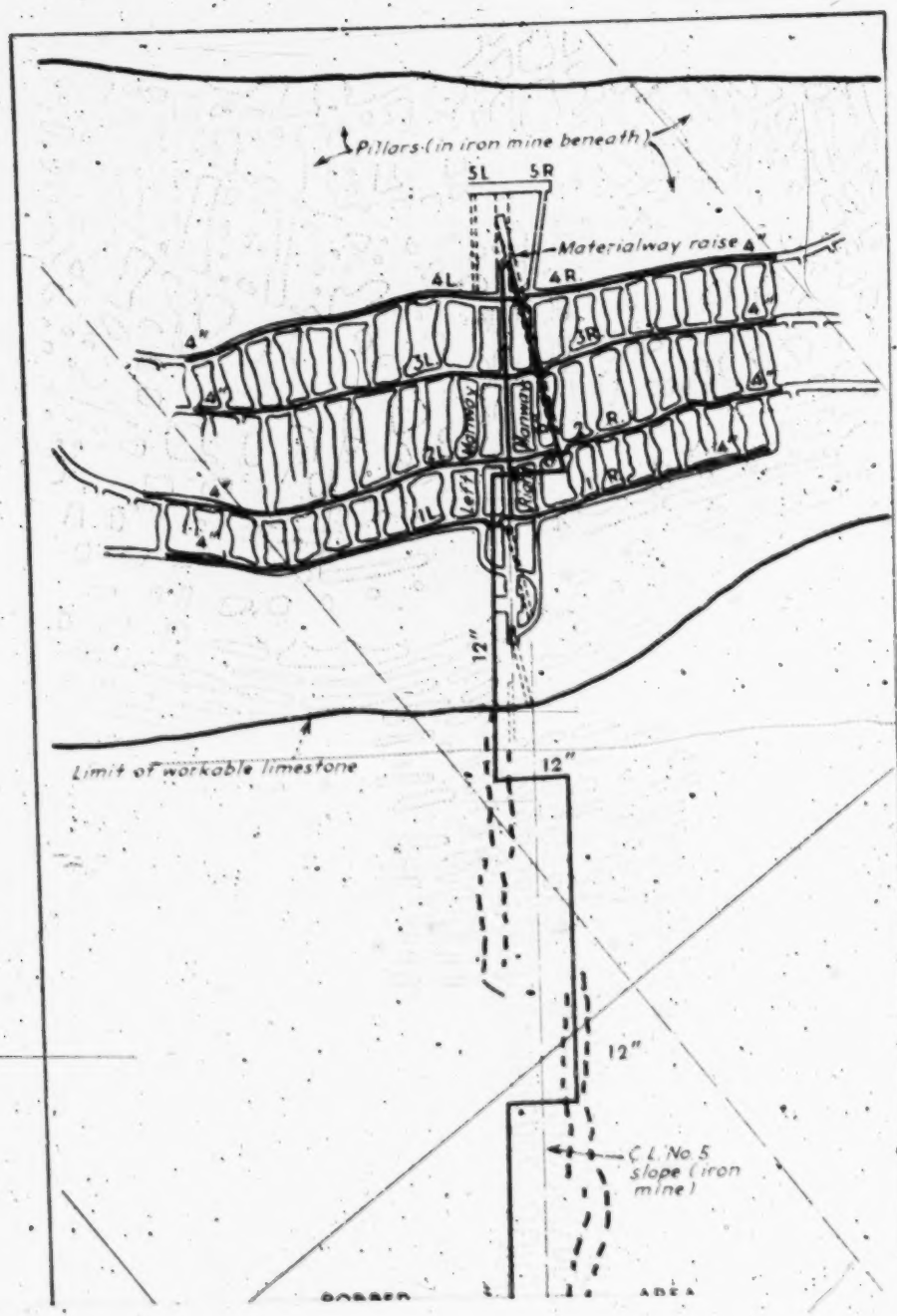


Fig. 7 . . . VENTILATION of the limestone mine, Muscoda No. 5, is accomplished with a 125,000-c.f.m. exhaust fan, 20 per cent of this capacity being required for the limestone workings and the remainder for two adjoining ore mines. Blower fans and flexible tubing also are used on each mining level

through single-reduction gears to develop a hoisting speed of 2,000 ft. per minute. The hoist is equipped with magnetic-control, dynamic braking system, hydraulic-control post brakes, Lilly hoist controller, track limit switches, and visible skip-position indicator. A miniature tipple placed over the indicating dial is wired to insulated sections of the track in the main tipple. When the skip passes over these sections, it completes the electrical circuit and a light shows on the miniature the exact position of the skip while dumping. The hoist is located to one side and at right angles to the slope center line. The hoisting rope is of 6x21 1¼ in. lang-lay construction. It runs from the hoist to a 10-ft. diameter turn sheave at ground level, and thence to a 10-ft. diameter head sheave at the top of the surface tipple.

Power for the operation of the surface hoist, compressors, crushers, and all underground electrical equipment is furnished from a central power house at the Fairfield steel works blast furnaces. It is delivered at 44,000 volts to a 5,000-kva. transformer substation near No. 5 engine house, where the voltage is stepped down to 2,300. Power at this voltage is transmitted into the mine through 600,000-circular mil, three-conductor, armored cable, to the motor-generator station in the ore slope below the limestone mine. This station is equipped with a 300-kva. motor-generator set with automatic controls. Direct current at 250 volts for mechanical loading is supplied



No. 6 cable, connected to the main cable.

Cost per ton of stone mined, crushed, washed, and delivered into railroad cars ready for shipment to the Ensley and Fairfield steel works consists approximately of 70 per cent for labor and 30 per cent for supplies and power. Table III gives a few statistics, averaged for the first eight months of 1937.

All men underground and the surface hoisting and assistant hoisting engineer, crusher men, helpers, and timekeeper are paid on an incentive system of pay, with a guaranteed occupational wage as a base. The producing crew in each mining level is a seven-man crew, consisting of head miner, two drill runners, one scraper-hoist operator, and three section helpers. The day shift only is worked, and an eight-hour turn at the working face is in effect. A standard number of tons per man-hour was established for the producing crews in the mining levels. When the tons per man-hour, loaded by a crew during a pay period, exceeds this standard, the payment of bonus begins. The bonus is distributed to every man in that mining crew on the basis of an equal per cent increase over his basic occupational rate. The amount of bonus is governed by the increase in tonnage over the standard. Head miners and drill runners are paid an additional bonus, which is based on the tons of stone broken per pound of explosive in excess of a predetermined standard.

The incentive earnings of the producing crews differ in each mining level. At the close of each pay period, an average is computed for the entire mine. Service or maintenance men are given a percentage increase over their basic occupational rate, based on this average.

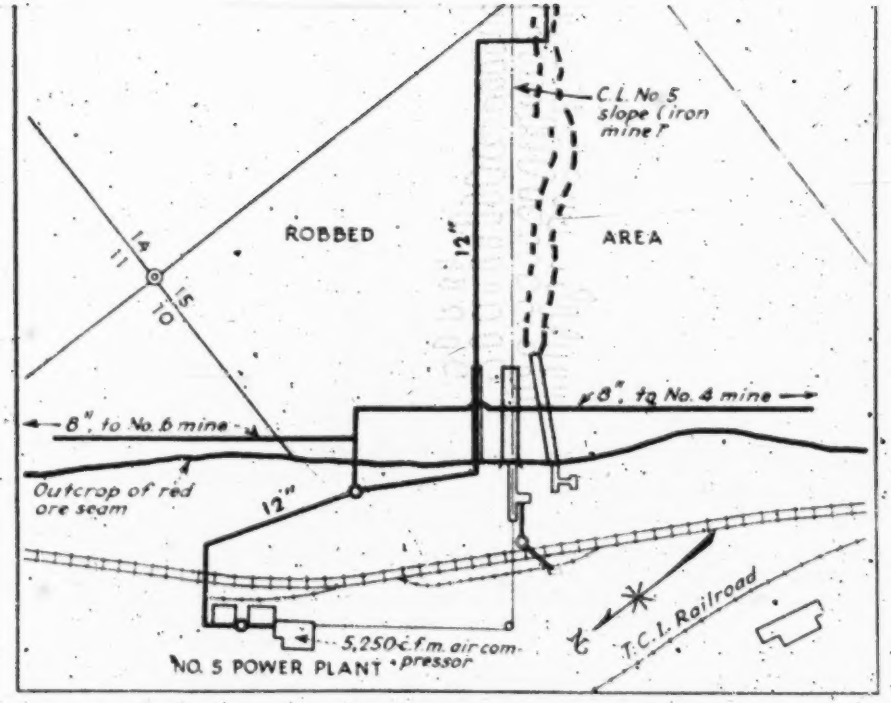


Fig. 8 . . . COMPRESSED AIR for the limestone mine as well as for the two adjoining iron ore mines is supplied from three electrically driven compressors situated on the surface. One of these, of 5,250-cu. ft. capacity, delivers air through a 12-in. line into the limestone workings. The other two are connected to this line by an 8-in. line

through a 1,000,000-circular mil feeder cable. Alternating current at 2,300 volts is supplied for the double-drum limestone slope hoist through a 2/0 cable which is connected to the main 600,000-circular mil cable. Alternating current for the man-and-material hoist is supplied through a

The incentive earnings of the producing crews differ in each mining level. At the close of each pay period, an average is computed for the entire mine. Service or maintenance men are given a percentage increase over their basic occupational rate, based on this average.

The mine superintendent gives a talk to each new man employed, safety being emphasized. The new employee is then placed in a crew under a foreman thoroughly experienced in handling new men, and given special supervision and instructions. Every crew foreman throughout the mine is responsible for the safety of his men. He gives daily instructions on safety and on all phases of the work. The mine foreman and his assistant examine daily all working places to insure safe conditions and practices. The mine inspector and his assistant make complete inspections at regular intervals, reporting to the management exact conditions found at time of inspection.

Workmen reported for unsafe practices or violations of safety rules are disciplined by the superintendent, either through reprimand, temporary suspension from work, or discharge. Monthly meetings are held by the superintendent. All foremen, subforemen, and head miners attend. Any accidents that have occurred are

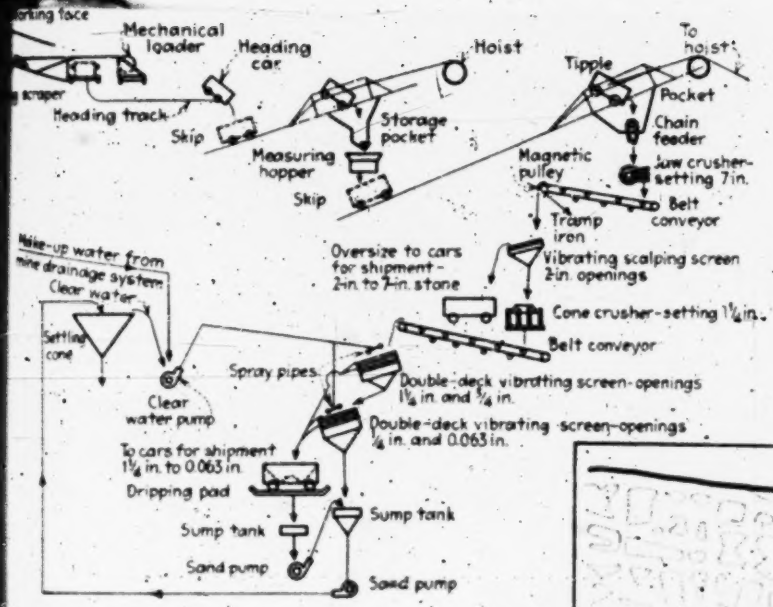
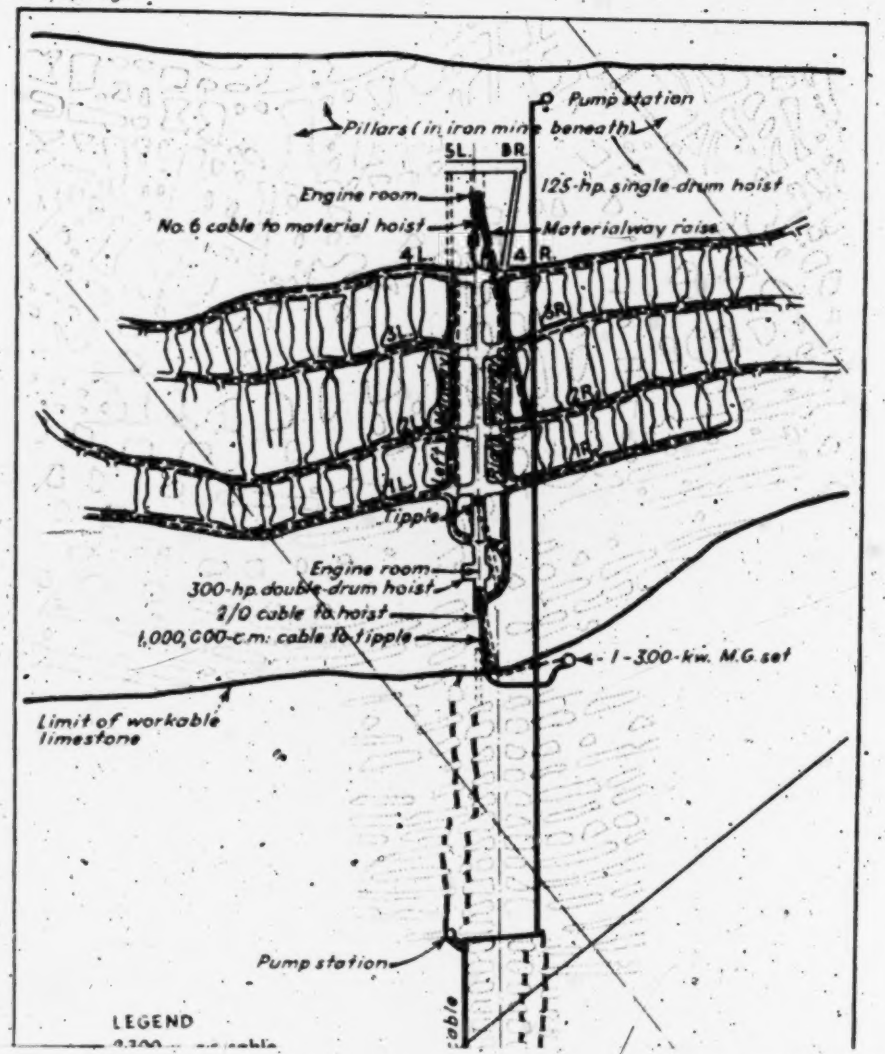


Fig. 10 . . . LIMESTONE HANDLING and preparation for shipment to the furnaces is shown here, beginning with the point of loading in the stope. The preparation plant is built of steel throughout

Fig. 9 . . . ELECTRIC POWER is distributed through the limestone workings from a 5,000-kva. substation, near the slope mouth, where it is stepped down to 2,300 volts from the 44,000 volts at which it is generated at the Fairfield steel plant. A motor-generator set in the ore slope below the limestone workings provides direct current for scraper use



thoroughly discussed, and suggestions are made for improvements in operation and future prevention of accidents. A program of first-aid training is followed, classes being held in the mine office. Those selected for training are paid for their attendance.

In its first year as a participant in the National Safety competition, the No. 5 limestone mine won for the year 1936 the Sentinels of Safety Trophy for the non-metallic group. First place was won with 114,701 accident-free man-hours. On Oct. 21, 1937, there had actually elapsed a period of 928 days since the last occurrence of a lost-time accident.

Use of the services of the local company physician or of the employees' hospital is optional with the employee. Physicians are on call 24 hours each day, and employees desiring their service pay a small monthly fee. This entitles the men and their families to dispensary service and hospitalization at the employees' hospital at a reduced cost. Employees living more than 2½ miles from a company dispensary are required to pay for each visit of the doctor.

In the event of an accident in an

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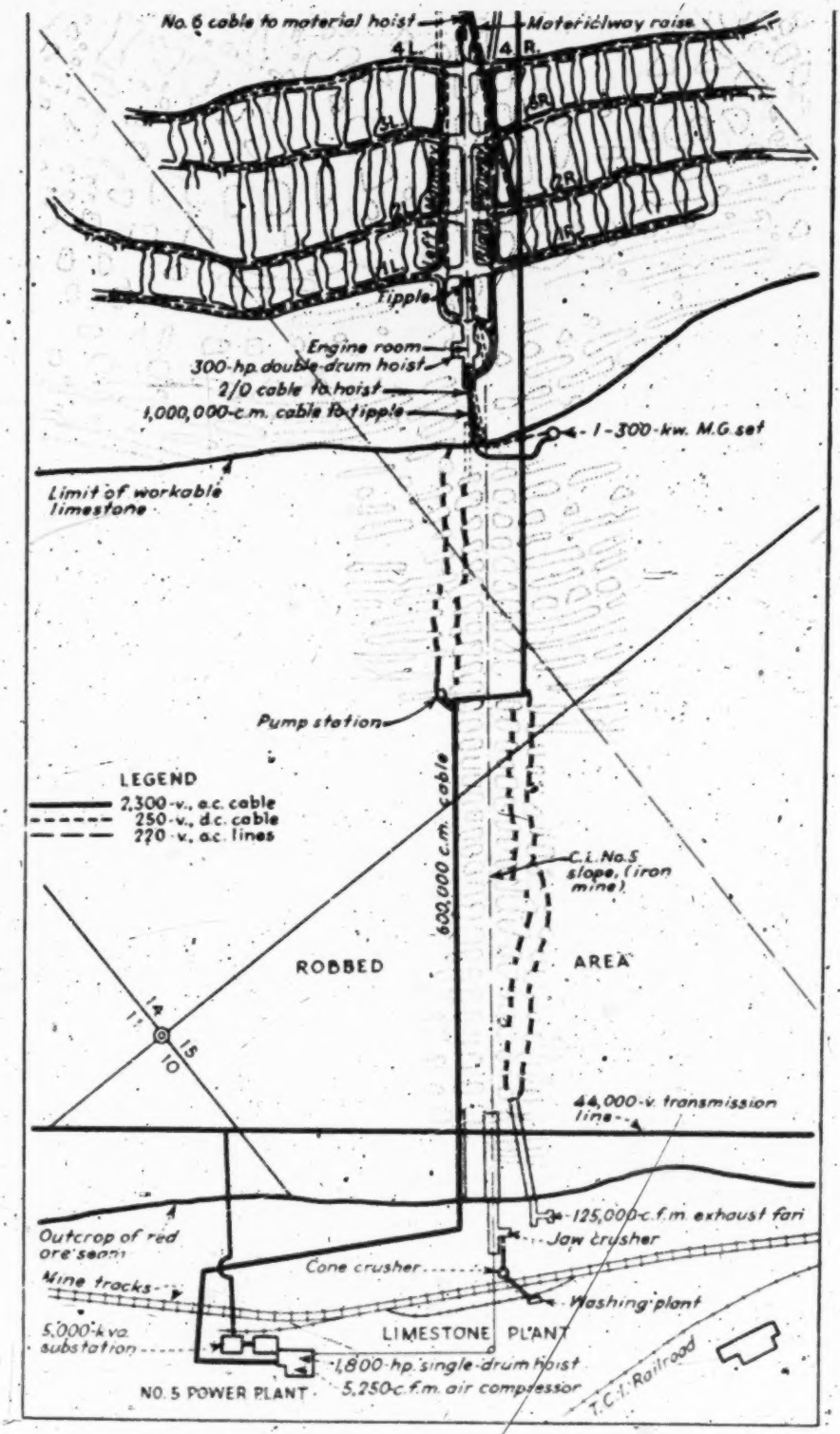
In the event of an accident in or around the mine, the injured party receives first aid by fellow workmen and is then sent to the local dispensary for emergency treatment. When accidents are of a serious nature, the patient is immediately taken by the company ambulance to the employees' hospital at Fairfield.

It was found that, in order to keep the stone of a more uniform analysis and low silica content and to meet more stringent specifications, it was necessary to reduce the height of stone mined from 40 ft. to 28 to 30 ft. This was essential because of chert inclusions in the upper and lower portions of the limestone bed.

Mining operations have been conducted since May 13, 1931, the only serious interruption being the time required for the installation of a new ventilation system.



3673 SLOSS EXHIBIT No. 1.

Bessemer, Alabama, April 13th, 1934.

To: Sloss-Sheffield Steel & Iron Company,

Attention: Mr. Marshall, Vice-President.

In Re: Closs Mines division, Bessemer.

Gentlemen:

We, the duly chosen representatives of more than 90 per cent of your employees, who were working for you on the first day of April, 1934, submit the following demands in working agreements and wage scales.

First: That the Company recognize our Union and deal with out chosen representatives, as required by Section 7 and 7(a) of the National Recovery Act.

Second: That the Union be recognized and the check-off system be given the employees, which system included the collection of dues collectively by the Company and paying same to the Financial Secretary. The Financial Secretary to send list of names in duplicate to pay master, and one list to be marked and returned to Financial Secretary of respective local. This list to be sent in for deduction from first pay day of month.

Third: That there be no discrimination or coercion against any employee for his activities and affiliations with the organization.

Fourth: That Union employees heretofore discharged and victimized be immediately reinstated with full seniority rights, and pay for time lost on account of their activities in our organization.

Fifth: That the company desist in attempting to compel by force, duress, threats and bribery to compel employees to join company union, or "Company Representative Plan".

Sixth: That the write-up system be abolished, or when any member of the organization, or employee, having violated any safety rule, and being written up, shall have the right to appeal to the Shops Committee for investigation, of said violation, and if not satisfied with the report of the Shops Committee, shall have the right to appeal to the State's Compliance Board, or, if he deems it necessary, the right to take his appeal to the National Labor Board.

Seventh: That the Company put any employee who has been laid off or discharged, back to work immediately, and give him preference over new men, and any employee, that has just grounds for thinking, or being convinced, that he has been demoted, shall be given a fair hearing, and if proven that he has been demoted shall be put back to his former position.

Eighth: In view of the fact that the Company can force the men to enter and leave the mines at any time stated by the Company, we ask the right to enter on our own time and leave on the Company's time.

Ninth: In view of the fact that the National Recovery Act was passed for the purpose of employing more men and increasing the purchasing power, we ask for a 7 hour day, the maximum of 35 hours per week, time and one-half for all overtime, double time for Sunday, (except where continuous operation is necessary), and double time shall be paid for the following holidays: Fourth of July, Labor Day, Armistice Day and Christmas. And where there is the contract system no man shall be paid less than the minimum daily rate.

Tenth: And where the men work on tonnage or contract basis, that they shall have the right to designate the check weighman, he to be paid by the employees, and the right to ask for inspection of scales at any time, if they deem it necessary.

Eleventh: And in the event of slack time, that time among the various employees be equitably divided.

Twelfth: That all scrips and substitute for money be made negotiable without discount.

Thirteenth: That the employees have the right to take any matter up with the company in regard to the doctor who is not giving satisfaction, and by solicitation and petition, shall submit to the company any fault which they might find with the doctor, as the employees pay the doctor. When an employee receives any defect caused by injury on job the company to reinstate him when he is discharged by company physicians. When company physician turns a man down he has right to go to private physician and if found sound and able to work the company to reinstate said man.

Fourteenth: That periodical physical examination be abolished.

Fifteenth: Any employee required to do work for the Union, shall be granted leave of absence, and said employee to be reinstated with full seniority rights upon his return to work.

Sixteenth: That no employee be required to live in a company house, unless said employees chooses to.

Seventeenth: That no employee be required to trade in the company store.

Eighteenth: That a Union committee shall take up the investigation of any officer or discharged member of the organization, and, in the event that there is no settlement agreed to, they shall appeal it to the Industrial Arbitration Board for their investigation.

Nineteenth: Should any controversy arise which can not be straightened out by a committee designated by the Union, in conference with the Company officials, they shall set up an arbitration board consisting of two (2) men chosen by the Union; two (2) men chosen by the Company; and one man appointed by the Regional or National Labor Board. Each party having the right to appeal the findings of the arbitration Board.

Twentieth: Should any man, living in a company house, be reasonably and justifiably discharged, or should quit the services of the company, that he shall be given a reasonable length of time to vacate said house, and, in the event of a strike or lock out, that employees living in company houses shall have the right to retain same until strike or lock out is adjusted satisfactorily to both sides, and after adjustments and satisfactory agreements have been reached by the company and the employees, the employees shall be required to pay one-half of the rent they are in arrears.

Twenty-first: That the employers shall have the right to discharge any man for a justifiable cause, but the employee shall have the right to appeal his case to the Arbitration Board, and, in the event the Arbitration Board hands the decision in favor of the man, the company shall have the right to take it before the Regional Board, and, if necessary, the National Board.

Twenty-Second: Wage Scale: That the minimum rate of pay shall be, for outside common labor, $4.60 per day.

For inside common labor $5.00 per day. And that the differential existing as of April 1st, 1934, between common labor and skilled labor shall be maintained as of this date.

Respectfully submitted, and in witness whereof, we hereunto subscribe our names as the chosen representatives of more than 90 per cent of your employees.

.....

(S.) JOHN HILL,

.....

.....

.....

.....

.....

Copy.

3677 SLOSS EXHIBIT No. 3.

This Agreement made and entered into by and between the Sloss-Sheffield Steel and Iron Company, hereinafter called the Company, and the Sloss Local Union No. 109, International Union of Mine, Mill and Smelter Workers, hereinafter called the Local.

Witnesseth:

1. That the Company fully recognizes the Local and through its properly accredited officers will meet and confer with the properly accredited officers and committees of the Local upon all grievances and questions which may arise under this agreement.

2. Any controversy concerning hours, wages, and conditions of employment, arising under this agreement between the Company and the Local shall, if possible, be adjusted locally.

3. For the purpose of collective bargaining on matters of mutual interest, including wages, hours, conditions of employment or any grievances affecting its membership, the Local shall select a representative committee who shall be recognized by the accredited representatives of the Company as the proper medium through which the Company and the Local are to negotiate.

4. Each grievance shall be handled as hereinafter provided:

(a) Any member having a grievance shall first discuss it thoroughly with his foreman, and an honest effort made to settle it.

(b) If the individual and the foreman cannot agree on a satisfactory settlement, the member having the grievance shall report same to the grievance committee.

(c) The grievance committee shall make a detailed investigation of the grievance and decide whether or not it shall be handled further with the Company. If the grievance is to be handled further then it must thereafter be handled as follows:

(d) The superintendent of the department in which the grievance arose shall be notified and the grievance shall be thoroughly discussed with him and every effort made to settle same.

(e) If a settlement with the superintendent cannot be made, the grievance shall then be taken up and thoroughly discussed with the Manager or General Manager of the Company and an effort made to reach an amicable adjustment.

5. Until all grievances have been handled exactly in accordance with this agreement there shall be no suspension of work by strike or lockout and both parties shall endeavor in every way to reach an amicable adjustment.

6. The Company retains the right to discharge any employee, but upon request by the Local he agrees to show cause for such discharge. If satisfactory cause cannot be shown, the discharged employee shall be reinstated and shall be paid for all time lost at his regular rate of pay.

7. In case of curtailment or other reductions of the number of employees, whatsoever the cause, the Company agrees that the men shall be laid off in rotation in service, the seniors in service to be the last laid off, and the last man laid off to be the first reemployed, in his respective occupation.

8. It is agreed that if for any cause there is a stoppage of production, it shall be mutually agreed between the management and the representative committee of the employees as to the number, of and who shall be permitted to work as are required in connection with the operation of pumps and other equipment, or on such work as is necessary to protect the properties from damage or destruction. It is further agreed that no charges for house rent shall be made during the stoppage of production.

9. Physical examinations shall not be a requirement for employment, and all periodical medical examinations *examinations* shall be abolished.

10. The Physician shall be selected by mutual agreement between the Company and the Local.

11. It is agreed that the employees shall enter the mines on their own *their own* time and come out of the mines on the Company's time.

12. It is agreed that the 'contract system' shall be abolished.

13. Eight (8) hours shall constitute a day's work, not to exceed forty (40) hours per week. Time worked in any day in addition to the regular hours per day shall be paid for at the rate of time and one-half. All Sunday work to be eliminated, insofar as possible, double time shall be paid for all other work on Sundays, and for the following holidays: Independence Day, Labor Day, Thanksgiving Day and Christmas Day, regularly employed operations and maintenance men by mutual agreement, to be excepted.

14. Employees called for work on other than his regular shifts, shall receive pay for not less than four (4) hours; and they shall be required to do only such work as emergency demands.

15. The regular semi-monthly pay days now in force shall be changed to weekly, or four (4) times monthly.

16. It is agreed that all employees coming under the jurisdiction of this Local shall have checked off from their wages any monies due the Local for Initiations, Dues, Fines and or Assessments, the same to be paid monthly to the Financial Secretary of the Local on or before the tenth day of the month following such deductions.

17. There shall be no discriminations of any kind against any member of the Local by Foreman, Superintendents, or any other person in the employ of the Company.

18. Members of the Local shall be granted leave of absence on Local business upon request. Any member who holds office or shall be elected to office in the Local

which requires his absence from the Company's service, shall upon retirement from such office be reinstated in his position with the Company, without loss of seniority.

19. Effective July 6th, 1935, wages shall be increased ten per cent (10%) over and above rates now in effect.

20. It is agreed that the officers and committmen of the Local will use their best efforts at all times to see that members are conscientious and honest in all respects, and that they conduct themselves in such manner as to clearly indicate that they have not only the interests of their fellow employees in mind, but also the interests of the employer as well, because for employer and employee success it is necessary that there be the fullest cooperation between employer and employee at all times.

21. It is further agreed that this agreement supersedes any and all other agreements that have been signed mutually by each party herein named, and shall terminate one year from date of signing, and is subject to change to conform to or with any National labor legislation passed during the life of this agreement.

In Witness Whereof, the parties hereto have executed this agreement on the ..... day of ....., 1935.

SLOSS-SHEFFIELD STEEL & IRON COMPANY,

By .....
.....
.....

SLOSS LOCAL UNION No. 109, I. U. M. M. & S. W.,

By .....
.....
.....
.....
.....

3681 SLOSS EXHIBIT No. 4.

Sloss-Sheffield Steel & Iron Company

Birmingham, Ala., August 4, 1935.

To: Mr. A. E. Horn, President, District #5,
Mr. John Hill, Representative of Sloss Ore Employees,
Mr. W. A. O'Neal, Representative of Sloss Ore Employees,
Mr. Sam Knox, Representative of Sloss Ore Employees.

Gentlemen:

Confirming statements made to you in conference with Mr. A. F. Harper and Mr. Osborne on August 3rd, 1935, relative to the notice given to you and posted at Sloss Mine on July 6th, 1935. This notice reads as follows:

"The present hourly tonnage and yardage rates and working conditions will be continued in effect until further notice.

(Signed) A. F. HARPER,
Superintendent."

Hours and rates of pay paid on this date for all classes of work will be continued in effect until further notice.

Working conditions includes the letter of understanding under date of July 7th, 1934, written by the Sloss Company to Mr. C. L. Richardson, Representative of Secretary of Labor. All provisions of this understanding will be continued in effect until such time as this arrangement is no longer practicable.

Yours very truly,

.....
General Manager.

3682 SLOSS EXHIBIT No. 5.

District 5 International Union of Mine, Mill and Smelter Workers

Affiliated with A. F. of L.

Offices: 1726½ Third Avenue

Bessemer, Alabama

May 5, 1936.

Mr. Ben Davis,
General Manager,
Sloss Sheffield Steel & Iron Company,
Birmingham, Alabama.

Dear Sir:

Relative to the policy of the Sloss Sheffield Steel & Iron Company with reference to the employees in the Red Ore Division as set forth in your letter of August 4th, 1935, and now in effect, we respectfully request a conference at your earliest possible convenience for the purpose of working out changes in this policy that will be mutually satisfactory to the company and the employees.

Awaiting your reply, I am,

Very truly yours,
(S.) A. E. HORN,
(A. E. Horn)
President.

AEH:P.

cc to: U. S. Department of Labor,
State Department of Labor.

3683 SLOSS EXHIBIT No. 6.

May 8, 1936.

Mr. A. E. Horn, President,
International Union of Mine, Mill and Smelter
Workers,
District No. 5,
Bessemer, Ala.

Dear Sir:

In reply to your letter of May 5th, 1936, requesting a conference with the management of the Sloss Company for the purpose of discussing and changing the present working policy relations now in effect at our ore mines.

I would be glad to discuss these matters with you personally at any time. However, in keeping within the present understanding with our employees, I feel any changes desired should be taken up by the employees' representatives with the plant superintendents and may be finally decided by them to the mutual satisfaction of all concerned.

Yours very truly,

.....

Vice-President & Gen. Mgr.

bd/h.

3684 SLOSS EXHIBIT No. 7.

District 5 International Union of Mine, Mill and Smelter Workers.

Affiliated with A. F. of L.

Offices: 1726½ Third Avenue

Phone 380

Officers:
A. E. Horn, President
Frank Allen, Vice President
C. L. Pegues, Secy-Treas.

Executive Board:
M. C. Anderson, Alabama
M. Payne, Tennessee
A. J. Watkins, North Carolina.
V. D. Jones, International Executive Board member, Bessemer, Ala.

Bessemer, Alabama, May 26, 1936.

Mr. A. F. Harper, Supt.,
Sloss Mines Division,
Sloss-Sheffield Steel & Iron Co.,
Bessemer, Alabama.

Dear Sir:

On June 24*, 1936, the agreement between your employees, members of the International Union of Mine, Mill and Smelter Workers and the company will expire.

In order that unnecessary delay or closing down of the mines, with its resultant ill-feelings, hardships and ex-

*Error in date—should be July 7th.

pense be avoided we respectfully request that negotiations between representatives of your employees and their company on the requests enclosed with this letter be entered into as soon as convenient to the company.

Your employees are convinced that due to the understanding made possible by the contract now drawing to a close both the employer and employee have benefitted, especially so in this. Your employees under the contract have had at their command a representative to present their side in all major and minor controversies with the company, thereby eliminating all possibility of misunderstanding and ill-feeling between the employee and his immediate supervisor.

Further, in presenting the requests listed in a separate letter enclosed with this communication we desire to state that they have only been arrived at after long and painstaking deliberations, excessive and exorbitant demands have been left out by the committee of your employees; duly elected by their fellow-workers to form these requests.

Your employees are well aware that during the past five years the roads travelled by our company have been hard. We also know our corporation is an inanimate being, created by law, without a soul, incapable of suffering the privations of live, or having a wife and children to share their sufferings, which has been the bitter experience of your employees.

As employees, we feel that we should and are willing to share increasingly our responsibilities. As partners in the business, and we feel that we are, we know that unless our company prospers, the employee can't. If costs are excessive and there are no orders, mines and mills are idle. Knowing these things in the past we have made no de-

mands for increased wages or changes in working hours of our company. We now feel conditions are better, earnings are increasing, dividends are slowly but surely mounting. In substantiation of these statements we quote no less and authority than our President, who recently said in one of his radio talks, "We are now definitely on our road to better times". Prices have increased in the bare necessities of life as well as steel and iron and coal. Our dollars will procure less and less as business improves. To meet this increase in the cost of living we are asking for a new contract, granting the following requests. I am

Sincerely yours,
(Signed) A. E. HORN,
(A. E. Horn)
President District #5, International Union of Mine, Mill and Smelter Workers.

AEH/bac.

Working Agreement Between the Sloss-Sheffield Steel and Iron Company and Their Employees, Members of the International Union of Mine, Mill and Smelter Workers.

This Agreement made and entered into this .... day of ....., 1936, by and between the Sloss-Sheffield Steel and Iron Company of Jefferson County, in the State of Alabama, hereinafter called the Company, and the Employees of the Sloss-Sheffield Steel & Iron Company, members of Local Unions No. 109 employed at the Red Ore Mines of the Sloss-Sheffield Steel & Iron Company, located in Jefferson County, in the State of Alabama, hereinafter called the Employees.

Witnesseth: That

Your employees, members of Sloss Local No. 109, have chosen the undersigned officers or members of the Inter-

national Union of Mine, Mill and Smelter Workers, District Number Five, to represent them in collective bargaining with the Company, and,

Whereas, the said Sloss-Sheffield Steel & Iron Company Local No. 109 through their President and other representatives thereof and the International Union of Mine, Mill and Smelter Workers through its President and other International Officers and District 5, International Union of Mine, Mill and Smelter Workers through its President and other District Officers and representatives being recognized as parties to this Agreement to the extent that they or said representatives or either of them shall now or hereafter represent the Employees of the Company at said mines.

Now, therefore, This said Agreement, entered into as of date hereinafter stated, between the Company and said representatives and other parties referred to hereinabove for and on account of the Employees at said Mines (not excepted from the operation hereof) who have chosen or who may hereafter choose said representatives or parties or any of them for the purpose of collective bargaining with the Company, or who may ratify their action hereunder, which have been or shall be conclusively determined for the purpose of this Agreement by the execution of assignment of dues under other sections hereof.

Witnesseth, That the parties hereto mutually agree to and with each other as follows: That the Company has entered into this Agreement with the understanding that all similar agreements relating to wages, working conditions and hours throughout the Alabama field shall be on a uniform basis, subject only to such differences as may be required by conditions peculiar to different mines, and it is understood and agreed that if the International Union of Mine, Mill and Smelter Workers through their representa-

tives, negotiate an agreement relating to wages, working conditions and hours with any other company on a basis more favorable than the basis of this Agreement, this Agreement shall then be modified so that the Company signatory hereto will receive like benefits.

Representation.

The employees not now represented by said representatives may by written notice to the Company authorize said representatives to represent them in negotiations with representatives of the Company as to all matters arising under this contract.

Check Off.

Employees shall have the right upon written assignment by the Local, to have dues not exceeding an amount predetermined by the Local in lawful and regular session checked off the wages of such Employees. The amount shall be remitted to the person provided in the assignment, on or immediately following the date of the regular payday.

No assessments or dues other than provided in this section shall be checked off for the account of the Sloss-Sheffield Steel & Iron Company Local 109, except upon authorization by the Executive Board of said Local, except funeral and sick benefits may be checked off along with each months dues.

Initiation fees (not exceeding $10.00 for any one man, and in sums not to exceed $2.00 per man in any pay period), where proper written authorization has been made to the Company by the Employee, shall be deducted by the Company and remitted to The Financial Secretary of Sloss Local No. 109.

Maximum Hours.

An eight hour day and five day week, (40 hours per week) shall prevail, exclusive of the thirty minute lunch period, with option to run through without suspension, if agreed to between the Company and the Mine Committee.

The eight hour day means eight hours in or about the mines, at the usual working places for all classes of work, (other than those excepted from this Agreement), exclusive of the lunch period, whether they be paid by the day or paid by tonnage, except in cases of accident, which temporarily necessitates longer hours for those Employees required on account thereof, and also except those whose daily work includes the handling of man-trips and those who are required to remain on duty while men are entering and leaving the mines. The following Employees are excepted from the foregoing provisions as to maximum hours of work: All Employees engaged in handling transportation of ore and men shall work additional time necessary to handle the mantrips or ore in transit, and shall be paid the regularly hourly rate. A maximum of fifteen minutes after the quitting time of loaders shall be allowed for the handling of ore in transit. Overtime work shall be done to take care of accidents and to do other repair work necessary so that the machinery may operate on the following shifts; and also to do any emergency work to protect property and make the main haulageway safe. In doing this necessary emergency work employees are to receive time and one-half for all time worked in excess of eight hours in any one twenty-four hour period extending from twelve midnight to twelve midnight, with the exception as stated above, where man-trips and ore in transit is being handled.

For all work performed by Employees on Independence Day, Labor Day, Thanksgiving Day and Christmas Day,

double the regular rates of pay shall be received, with the exception that necessary continuous occupational jobs, such as pumpers, will be paid in the usual manner.

The usual lunch period, as hereinbefore observed unless changed by mutual agreement is to be given.

Day wage men going into the mines in the morning shall be entitled to three hours pay whether or not the mines work three full hours but after the first three hours the men shall be paid for every hour thereafter, by the hour, for the hours worked or fractional part thereof.

Mine Committee.

A Mine Committee of three Employees shall be elected, each member of which shall be eligible to serve as a committee member only so long as he is employed at the mines, to represent the Employees who are members of the Local Union, the Committee to be properly certified to the Company by their Local representatives. No meeting shall be held during working hours except by mutual agreement between the Mine Officials and the Mine Committee, nor shall members of a Mine Committee leave their working places except when called in by the Mine Officials, who shall, on request, permit the committee to look after the interest of the employees represented by them involved in any dispute.

Discharge Cases.

In case of controversy regarding the justice of employer in discharging or suspending an employee, the case will be disposed of according to the manner and method as set out under the heading "Settlement of Disputes". Should it be decided that an injustice has been done to the employee the company will be obligated to re-instate

and compensate the employee at the rate of pay based on the average earnings of his five immediately preceding full work days, prior to such discharge or suspension. Further, that such cases shall be taken up within three days from the date of discharge or suspension and disposed of as soon thereafter as possible and in any event no more than thirty days. The Company may employ the complainant during the time the hearing is in progress.

Settlement of Disputes.

In cases of controversy arising between the Company or Employees as to the meaning or application of any of the provisions or terms of this Agreement, or as to matters not specifically mentioned in the Agreement, it is agreed that there shall be no suspension of work either by strike or lockout for a period of at least thirty days, during which time an honest and lawful effort will be made to settle such difficulty by the following procedure:

1. The complaining party taking his grievance up with the Local's pit committee who in turn in company with the complaining party presents it to the Mine Foreman.

2. The Superintendent of the Mines and the Mine Committee.

3. Through the Superintendent of the Mines and the representatives of District No. 5, I. U. M. M. & S. W., who have signed this Agreement or their representatives.

4. Through the Management or their representatives who have signed this Agreement and the representatives of District No. 5 of the I. U. M. M. & S. W., who have signed this Agreement on behalf of the Employees.

5. In case an agreement is not reached by negotiations through one of the four methods set out above, the controversy shall be arbitrated by a board of four members, two of whom shall be designated by the signers of this Agreement, representing the Management, and two designated by the signers representing District No. 5, I. U. M. M. & S. W.

In case of a tie in this board the four shall select a fifth member, who after having all the facts placed before him, shall cast the deciding vote. In the event of failure to agree upon a fifth member, the President of District No. 5, or his representative and the President of the Company or his representative shall agree upon a fifth member within five days. In the event they fail in this, the Commissioner of the Department of Labor for Alabama, shall select the fifth member. All expenses incident to the services of the fifth member shall be paid equally by the Company and District No. 5. The decision of this arbitration board shall become a part of this Agreement continuing as such until its expiration.

Miscellaneous.

Payments shall be made semi-monthly in lawful money or par check at or near the location in which the employee works. The Company shall keep the working places as dry as possible; when wet places are driven the amount of pay incidental to furnishing proper protection and inconvenience shall be agreed upon between the Mine Boss and the Employee affected. When an employee working on piece work is required by a Mine Official to leave his work at the face to perform other work he shall be paid at the rate for a Miner on Company Work.

When an Employee has no work at the face and is given other labor he shall be paid at the scale for such labor.

A helper is an employee who works under the direction of a skilled man.

In the event of strikes or lockouts, Employees request that they be permitted to place watchmen about the mines or workings in equal number with the regularly employed company watchmen, this to forestall, if possible, any damage or vandalism to company property as has been the case in past difficulties, in an effort to discredit your employees and their organization. In the event this is granted and the mines do not attempt to operate there will be no picketing on the part of your employees, while on the contrary, your property will be guarded with their lives.

In the case of shut-downs or the suspension of operations for a period of two weeks or more due to causes over which your employees have no power, house rent shall be reduced two-thirds the regular charged amount to the employees.

In the event of shut-down in which the Company supplies its employees with provisions and supplies at their company sores, on resumption of operations, the employees wages shall be cut in payment for these supplies in the following manner:

Up to and including the first 40 hours, current debits; after first 40 hours-fifteen percent of earnings applies to back indebtedness; in the event the employee desires to make a more substantial payment out of current earnings than at the above rate, he may do so by voluntary making a written assignment to the Company.

At least once each month employees are to be given a statement setting out the amounts paid and amounts due on back indebtedness.

The Company shall grant a general increase in wages of 10% to all Employees, plus equitable adjustments, in specific instances to be taken up at the time of negotiations on this Agreement.

The work day shall consist of eight hours in any twenty-four hour period, the time to run from midnight to midnight.

Time and one-half is to be paid for all overtime in excess of eight hours in any twenty-four hour period and double time for Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

In case of controversy neither party to the agreement is to cause the cessation of operations for a period of at least thirty days, during which time negotiations shall be extended, with the exception that in the event either party deliberately and knowingly violates this Agreement, the aggrieved party may consider this contract terminated.

Any and all monies due from Employees to their Locals is to be deducted from the first half of the months earnings, with the exception that in case the employee only worked two full days the deduction is to be made from the second half earnings.

This Agreement is to terminate on the .... day of ....., 1937.

For and in consideration of the above Agreement your Employees, members of Local Unions Nos. 123, 153 and 157 of the International Union of Mine, Mill and Smelter Workers bind themselves to in every way consistent with sound judgment, through their Local Unions and Officials, to faithfully carry out this Agreement.

In witness whereof, said parties have hereunto set their hands and seals this .... day of ....., 1936.

SLOSS LOCAL UNION No. 109,
I. U. M. M. & S. W.,
By .....
.....

SLOSS-SHEFFIELD STEEL &
IRON COMPANY,
By .....
.....
.....

3695 SLOSS EXHIBIT No. 8.

Sloss Sheffield Steel & Iron Company

Birmingham, Alabama.

To the Employees of Sloss Red Ore Mine:

1. This is to confirm the understandings reached at conference between representatives of employees of our red ore mine and the management, regarding the position of this company as to its red ore mining operations.

2. We are entirely willing to deal with a committee on matters of collective bargaining as they arise for our red ore mine employees as they shall represent.

3. The employees at our red ore mine have been free to join or not to join any organization they chose without prejudice or discrimination and no employee is required to join any organization in order to retain or obtain a job with Sloss Company.

4. It is understood that the wage scale attached to this letter constitutes the rates to be paid by us for the various

classifications as shown to August 4, 1937, unless changed by mutual agreement between the management and the representatives.

5. Our men are free to select a committee to represent them in adjusting any grievance that may arise between them and the management which the employee himself cannot settle satisfactorily with the Mine Foreman and Superintendent. It is understood that such committee will not take up any grievance until the employee has endeavored to adjust the matter himself with the Mine Foreman and Superintendent.

6. Should the employee and the Mine Superintendent fail to adjust the grievance, the matter will then be taken up by the committee with the Mine Superintendent. Failing to reach an agreement, in this event, it will be taken up with the General Superintendent of Ore Mines. If they should fail to agree, the matter shall be submitted to arbitration, two arbitrators to be named by the committee and two to be named by the management of the company and these four shall select a fifth within thirty days. Any expense incurred by the arbitration shall be borne equally by the company and employees.

7. It is understood that the management of the mine and direction of the working forces are vested exclusively in the company, and the duties of the mine committee shall be confined as outlined in Items 5 and 6.

8. It is distinctly understood that the mine committee will not interfere with the operations of the mine to enforce any purely local grievance until the full procedure of settling the dispute has been followed as outlined in Items 5 and 6.

9. Any change in mining methods or installation of equipment that relieves or hinders the mine worker of any of the duties incidental to his regular work and/or increases or decreases his productive capacity shall be recognized and a new piece-work rate established by mutual agreement in accordance with previous earnings of the men employed thereon.

10. Independence Day, Labor Day, Thanksgiving Day and Christmas Day will be observed as holidays, except for necessary maintenance or repair work, and those employees whose occupations require continuous duty.

11. (a) An eight hour day and five days per week employee shall prevail, exclusive of the lunch period. The eight hour day means eight hours of work in the usual working places, exclusive of the lunch period. The Sloss Company shall have the right during the entire period of this understanding to operate the mine one; two or three-hour shifts by different crews of men within each twenty four hour period.

(b) The eight hours per shift will not apply in case of accidents which may temporarily necessitate longer hours for those employees required on account thereof, and also excepting the number of men required to handle man trips, and those required to remain on duty while men are entering or leaving the mine.

12. After company men have gone into the mine in the morning they shall be entitled to two hours' pay, whether or not the mine works two hours, providing the work is not interrupted by labor dispute.

13. When an employee working on piece work is required by mine officials to leave his work at the face to

perform other work, he shall be paid at the rate for a miner on company work.

14. When an employee has no work at the face and is given other labor, he shall be paid at the scale for such labor.

15. A helper, or helpers, are employees who work under the direction of a skilled man.

16. In the event of a shut-down in which the company supplies its employees with provisions and supplies at the company store, on resumption of operations the employees' wages shall be cut in accordance with his ability to pay.

17. Present practices not in conflict with this understanding will be continued.

SLOSS SHEFFIELD STEEL & IRON CO.,
BEN DAVIS.
EMPLOYEES' REPRESENTATIVES,
JOHN HILL,
JESSE GAINES,
W. A. O'NEAL,
W. H. GUNTER,

Dated this 21st day of July, 1936.

Sloss-Sheffield Steel & Iron Company.

Red Ore Mines.

Outside Rates.

Occupation	Hourly Rate	Amount per Shift	Hours per Shift
Truck Driver	$ .38	$3.04	8
Teamster	.35	2.80	8
Engineers—Main Hoist	.58	5.80	10
Dumpers	.375	3.60	8
Tipplemen	.375	3.00	8
Conveyor Men	.375	3.00	8
Weighmen	.50	4.50	9
R. R. Car loaders	.375	3.00	8
Crusher Men	.47	3.76	8
Machinist	.625	5.00	8
Blacksmith	.65	5.20	8
Blacksmith helper	.38	3.04	8
Carpenter	.48	3.84	8
Car Repairmen	.47	3.76	8
Car Repairmen helpers	.42	3.36	8
Drill Sharpener	.555	4.44	8
Compressor Man	.52	4.68	9
Watchman	.36	2.88	8
Laborers	.30	2.40	8

Sloss-Sheffield Steel & Iron Company.

Red Ore Mines.

Inside Rates.

Occupation	Hourly Rate	Amount per Shift	Hours per Shift
Company drillers	$ .57	$4.56	8
Driller helpers	.50	4.00	8
Rockmen	.51	4.08	8
Rockmen helpers	.43	3.44	8
Timbermen	.51	4.08	8

Timbermen helpers	.43	3.44	8
Pipemen	.47	3.76	8
Pipemen helpers	.43	3.44	8

Chainers—contract .0182 and .015 ton, amount per shift based on production.

Company chainers	.46	3.68	8
Company chainers helpers	.435	3.48	8
Engineers—main hoist	.57	4.56	8
Engineers—Auxiliary hoist	.51	4.08	8
Stablemen	.47	3.76	8
Trackmen	.51	4.08	8
Trackmen Helpers	.43	3.44	8
Roller Men	.44	3.52	8
Pumpers	.44	3.52	8
Electric repairmen	.605	4.84	8
Machinist	.605	4.84	8
Miner on company work*	.50	4.00	8

* See item 13 for application.

Sloss-Sheffield Steel & Iron Company.

Red Ore Mines.

Hand Loading Entries 18 Feet or Less in Width.

Normal crew 5 men. Base 35 tons per shift of 8 hrs. @ .58 per ton.

Actual crew to be determined by Mine Foreman to comply with local conditions.

Occupation	Earnings per Hour	Earnings per Shift
Driller	$0.57	$4.56*
Driller Helper	.50	4.00
Muckers	.50	4.00

All excess tonnage above base will be paid for on a pro rata basis at $0.58 per ton.

Credit for yardage to go to driller, or head miner.

Where company trams ore to slope knuck task per loader will be increased on a pro rata basis to compensate haulage crew for this work.

* After expenses are deducted.

Sloss-Sheffield Steel & Iron Company.

Red Ore Mines.

Entry Yardage Rates.

Main Slope 12 feet wide	$16.50 per lin. yd.
Lateral Heading 10 x 18	9.20 per lin. yd.
Upset	7.30 per lin. yd.

Sloss-Sheffield Steel & Iron Company.

Red Ore Mines.

Hand Loading Entries or Stopes over 18' in Width.

Normal crew of 5 men. Base 43 tons per shift of 8 hrs. @ .58 per ton.

Normal crew of 6 men. Base 56 tons per shift of 8 hrs. @ .58 per ton.

Actual crew to be determined by Mine Foreman to comply with local conditions.

Occupation	Hourly Rate	Amount per Shift
Driller	$0.57	$4.56*
Driller Helper	.50	4.00
Muckers	.50	4.00

All excess tonnage above base will be paid for on a pro rata basis of $0.58.

Where company trams ore to slope knuck task per loader will be increased on a pro rata basis to compensate haulage crew for this work.

* After expenses are deducted.

Sloss-Sheffield Steel & Iron Company.

Red Ore Mines.

Drag Loading.

Maximum crew 9 men. Base 130 tons per shift of 8 hrs. @ .455 per ton.

Actual crew to be determined by Mine Foreman to comply with local conditions.

Occupation	Hourly Rate	Amount per Shift
Head Miner	$0.64	$5.12*
Driller	.57	4.56
Driller helper	.50	4.00
Drag engineer	.57	4.56
Haulage engineer	.435	3.48
Muckers	.50	4.00

All excess tonnage above base will be paid for on a pro rata basis of $0.455 per ton.

* After expenses are deducted.

3704 SLOSS EXHIBIT No. 9.

To the Employees of Sloss Red Ore Mine:

1. This is to confirm understandings reached at conference between representatives of employees of our red ore mine and the management, regarding the position of this company as to its red ore mining operations.

2. We are entirely willing to deal with a committee on matters of collective bargaining as they arise for our red ore mine employees as they shall represent.

3. The employees at our red ore mine have been free to join or not to join any organization they chose without prejudice or discrimination and no employee is required to join any organization in order to retain or obtain a job with Sloss Company.

4. It is understood that the wage scale attached to this letter constitutes the rates to be paid by us for the various classifications as shown to Sept. 13, 1938, unless changed by mutual agreement between the management and the representatives.

5. Our men are free to select a committee to represent them in adjusting any grievance that may arise between them and the management which the employee himself cannot settle satisfactorily with the Mine Foreman and Superintendent. It is understood that such committee will not take up any grievance until the employee has endeavored to adjust the matter himself with the Mine Foreman and Superintendent.

6. Should the employee and the Mine Superintendent fail to adjust the grievance, the matter will then be taken up by the committee with the Mine Superintendent. Fail-

ing to reach an agreement in this event, it will be taken up with the General Superintendent of Ore Mines. If they should fail to agree, the matter shall be submitted to arbitration, two arbitrators, to be named by the committee and two to be named by the management of the company and these four shall select a fifth within thirty days. Any expense incurred by the arbitration shall be borne equally by the company and employees.

7. It is understood that the management of the mine and direction of the working forces are vested exclusively in the company, and the duties of the mine committee shall be confined as outlined in Items 5 and 6.

8. It is distinctly understood that the mine committee will not interfere with the operations of the mine to enforce any purely local grievance until the full procedure of settling the dispute has been followed as outlined in Items 5 and 6.

9. Any change in mining methods or installation of equipment that relieves or hinders the mine worker of any of the duties incidental to his regular work and/or increases or decreases his productive capacity shall be recognized and a new piecework rate established by mutual agreement in accordance and previous earnings of the men employed thereon.

10. Independence Day, Labor Day, Thanksgiving Day and Christmas Day will be observed as holidays, except for necessary maintenance or repair work, and those employees whose occupations require continuous duty.

(a) An eight hour day and five days per week per employee shall prevail, exclusive of the lunch period. The eight hour day means eight hours of work in the usual working places, exclusive of the lunch period. The Sloss

Company shall have the right during the entire period of this understanding to operate the mine one, two or three eight-hour shifts by different crews of men within each twenty-four hour period.

(b) The eight hours per shift will not apply in case of accidents which may temporarily necessitate longer hours for those employees required on account thereof, and also excepting the number of men required to handle man trips, and those required to remain on duty while men are entering or leaving the mine.

12. After the company men have gone into the mine in the morning they shall be entitled to two hours' pay, whether or not the mine worked two hours, providing the work is not interrupted by labor disputes.

13. When an employee working on piece work is required by mine officials to leave his work at the face to perform other work, he shall be paid at the rate for a miner on company work.

14. When an employee has no work at the face and is given other labor, he shall be paid at the scale for such labor.

15. A helper, or helpers, are employees who work under the direction of a skilled man.

16. In the event of a shut-down in which the company supplies its employees with provisions and supplies at the company store, on resumption of operations the employees' wages shall be cut in accordance with his ability to pay.

17. Present practices not in conflict with this understanding will be continued.

SLOSS-SHEFFIELD STEEL & IRON CO.,
BEN DAVIS.
EMPLOYEES' REPRESENTATIVES,
JOHN HILL,
W. A. O'NEAL,
JESSE GAINES.

Dated this 13th day of September, 1937.

Red Ore Mines.

Outside Rates.

Occupation	Hourly Rate	Amount per Shift	Hours per Shift
Truck Driver	$ .490	$3.92	8
Teamster	.455	3.64	8
Engineers—Main Hoist	.720	7.20	10
Dumpers	.485	3.88	8
Tipplemen	.485	3.88	8
Conveyor Men	.485	3.88	8
Weighmen	.625	5.62	9
R. R. Car Loaders	.485	3.88	8
Crusher Men	.585	4.68	8
Machinist	.770	6.16	8
Machinist Helper—1st Class	.520	4.16	8
Machinist Helper—2nd Class	.490	3.92	8
Blacksmith	.795	6.36	8
Blacksmith Helper	.490	3.92	8
Carpenter	.60	4.80	8
Carpenter Helpers	.455	3.64	8
Car Repairman	.585	4.68	8
Car Repairman Helpers	.530	4.24	8

Occupation	Hourly Rate	Amount per Shift	Hours per Shift
Drill Sharpener	.690	5.52	8
Compressor Man	.645	5.81	9
Watchman	.465	3.72	8
Laborers	.40	3.20	8
Slate Pickers	.40	3.20	8
Ore Inspector	.53	4.24	8

Note: One and one-half times the above hourly rates will be paid for all time in excess of eight (8) hours per day or forty (40) hours per week, excepting supervisors, foremen and a few occupations, where application of this rule is not practical.

Red Ore Mines.

Inside Rates.

Occupation	Hourly Rate	Amount per Shift	Hours per Shift
Company drillers	$ .705	$5.64	8
Driller helpers	.625	5.00	8
Motormen	.635	5.08	8
Coupler	.550	4.40	8
Rockmen	.635	5.08	8
Rockmen helpers	.545	4.36	8
Track cleaners	.506 Ton	—	—
Timbermen	.635	5.08	8
Timbermen helpers	.545	4.36	8
Pipemen	.585	4.68	8
Pipemen helpers	.545	4.36	8

Chainers-Contract—.022 and .01815 ton, amount per shift based on production.

Company chainers	.575	4.60	8
Company chainer helpers	.550	4.40	8

Engineers—Main hoist	.705	5.99	8½
Engineers—Auxiliary hoist	.635	5.08	8
Stablemen	.585	4.68	8
Rock, Timber and Track Foremen	.705	5.64	8
Trackmen	.635	5.08	8
Trackmen helpers	.545	4.36	8
Roller men	.555	4.44	8
Pumpers	.555	4.44	8
Electric repairmen	.745	5.96	8
Machinist	.745	5.96	8
Miner on company work*	.625	5.00	8

* See items 13 and 14 for application.

Note: One and one-half times the above hourly rates will be paid for all time in excess of eight (8) hours per day or forty (40) hours per week, excepting supervisors, foremen and a few occupations where application of this rule is not practical.

Red Ore Mines.

Entry Yardage Rates.

Main slope, 12 feet wide	$17.80 per lin. yd.
Lateral heading 10 x 18	9.90 per lin. yd.
Upset	7.85 per lin. yd.
Splitting a single stope into a double stope	25.00

Division of Tonnage Rate to Men of Crews.

Hand Loaded Ore.

Occupation—	Entries or Stopes Over 18 Feet in Width 5 Man Crew		Entries or Stopes Over 18 Feet in Width 6 Man Crew		Entries 18 Feet or Less in Width 5 Man Crew	
	Number Men	Rate per Ton	Number Men	Rate per Ton	Number Men	Rate per Ton
Drill Man	1	$.129	1	$.109	1	$.153
Drill Man	–	.112*	–	.112*	–	—
Drill Man Helper	1	.116	1	.098	1	.138
Muckers	3	.351	4	.389	3	.417
Total	5	$.708	6	$.708	5	$.708

* To credit of Day Shift Drill Man for Explosives and Tools.

Drag Loaded Ore.

Occupation—	10 Man Crew (5 Men on Day 5 Men on Night)		12 Man Crew (6 Men on Day 6 Men on Night)		13 Man Crew (7 Men on Day 6 Men on Night)		15 Man Crew (8 Men on Day 7 Men on Night)	
	Number Men	Rate per Ton	Number Men	Rate per Ton	Number Men	Rate per Ton	Number Men	Rate per Ton
Head Miner	1	$.057	1	$.048	1	$.045	1	$.041
Head Miner	–	.110*	–	.110*	–	.110*	–	.110*
Drag Engineer—Night Shift	1	.046 (1)	1	.039 (2)	–	—	–	—
Drag Engineers— (1 Day—1 Night)	–	—	–	—	2	.070	2	.062
Drill Men	2	.093	4	.152	4	.139	4	.121
Drill Men Helpers	2	.081	2	.066	2	.061	2	.053
Muckers	2	.081	2	.066	2	.061	4	.106
Haulage Engineers	2	.071	2	.058	2	.053	2	.046
Total	10	$.539	12	$.539	13	$.539	15	$.539

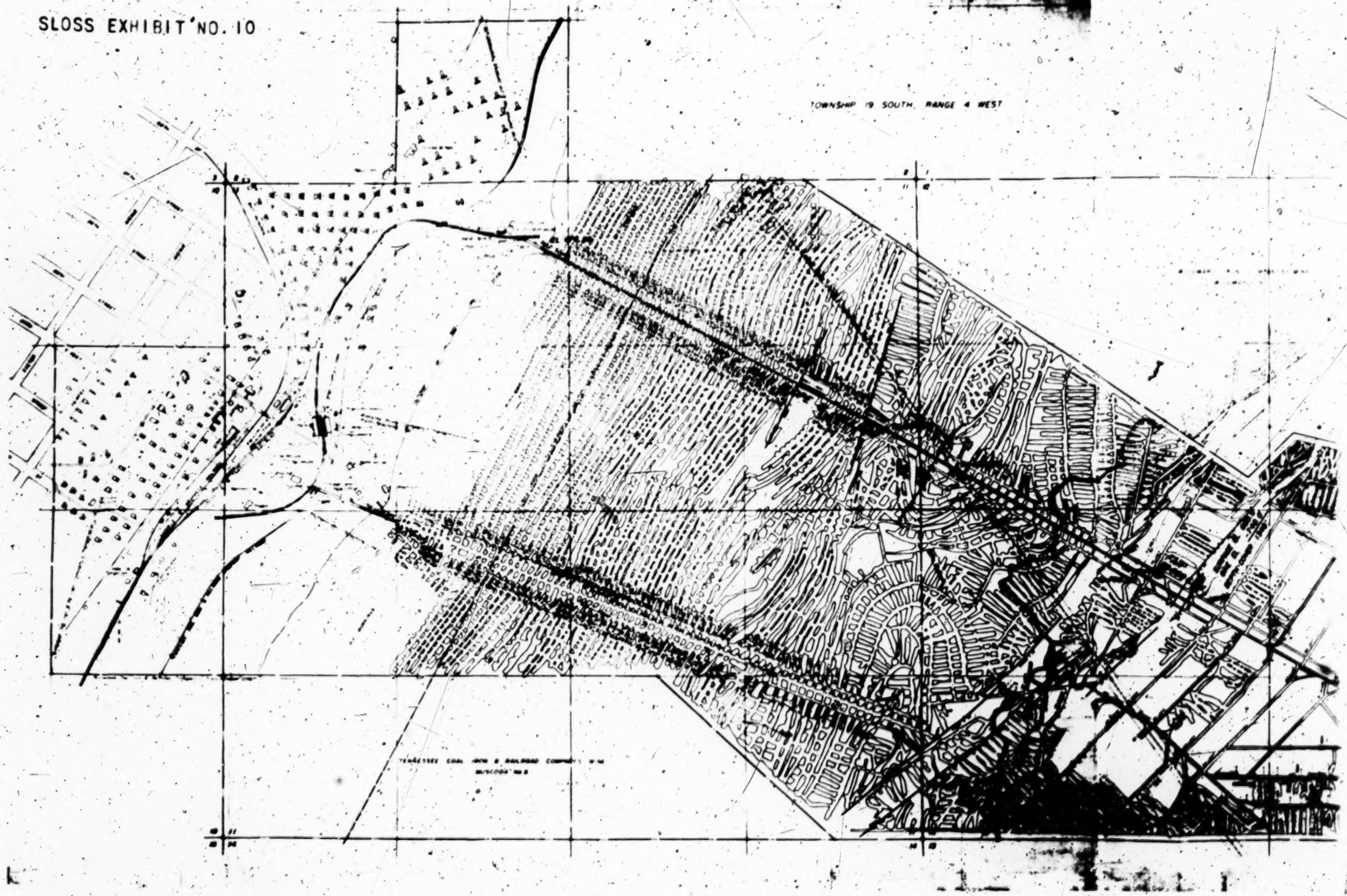
* To credit of Head Miner for Explosives and Tools.

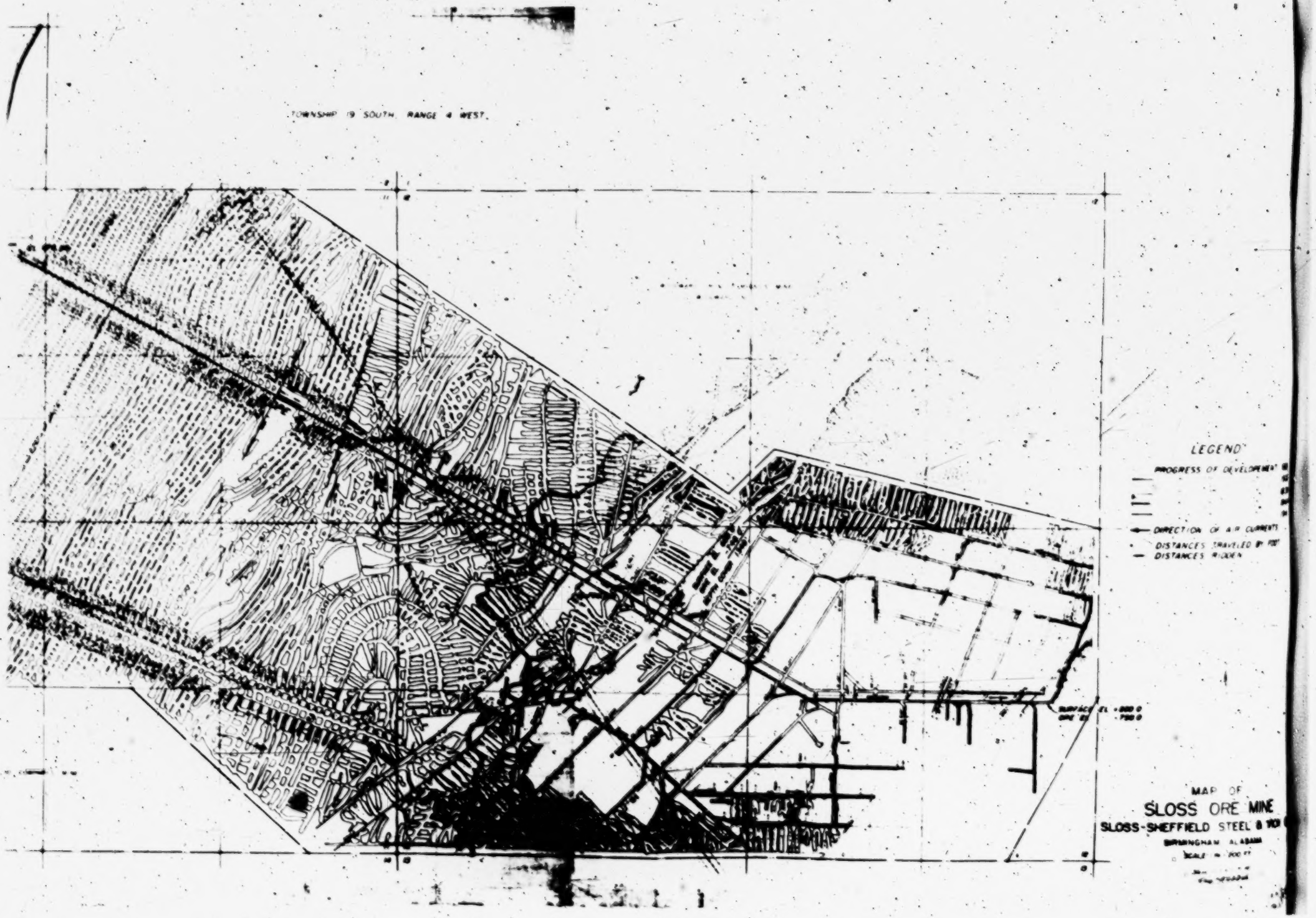
(1) Pay $.092 on Night Shift Tonnage only—No credit for Day Shift Tonnage.

(2) Pay $.078 on Night Shift Tonnage only—No credit for Day Shift Tonnage.

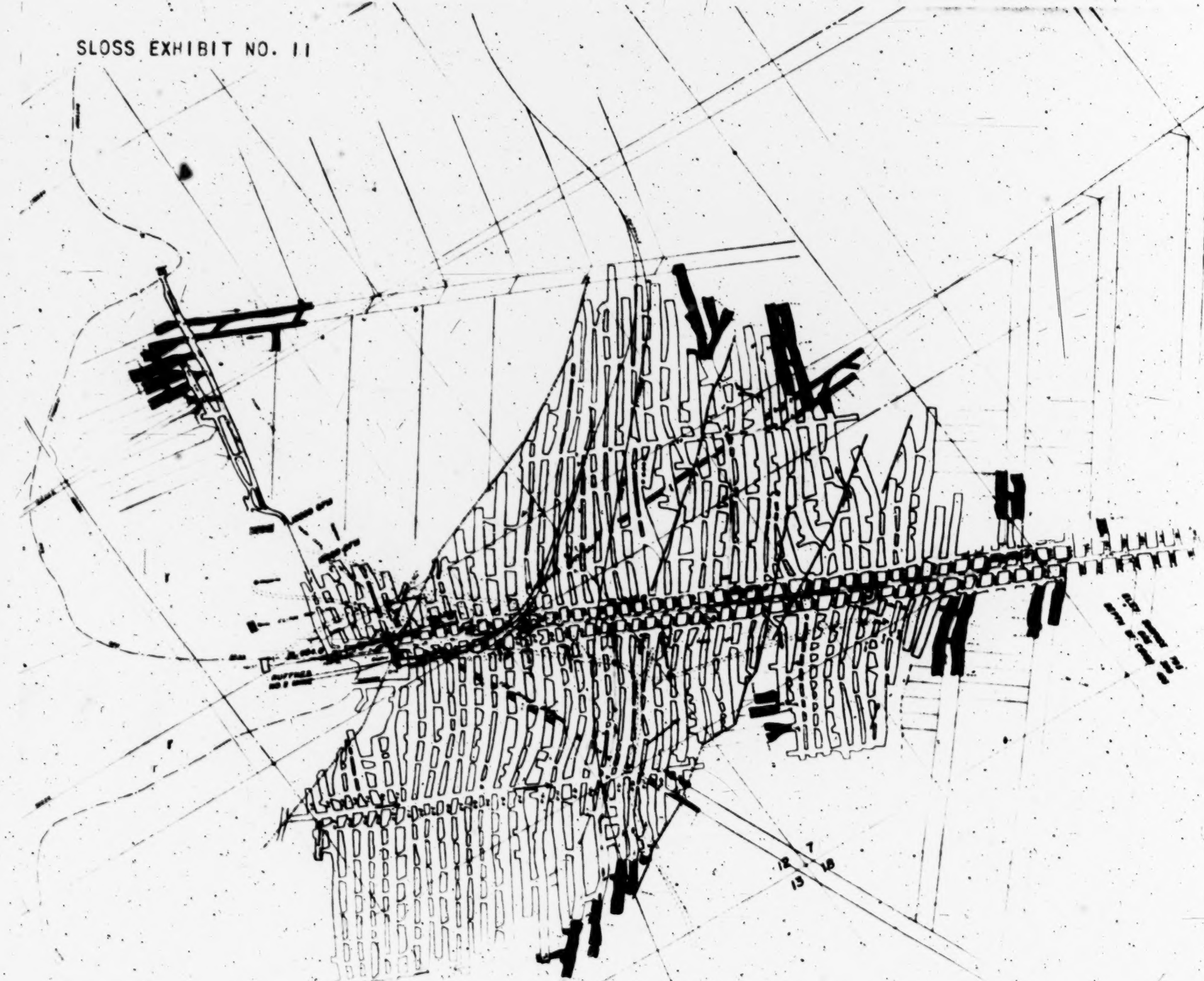
SLOSS EXHIBIT NO. 10

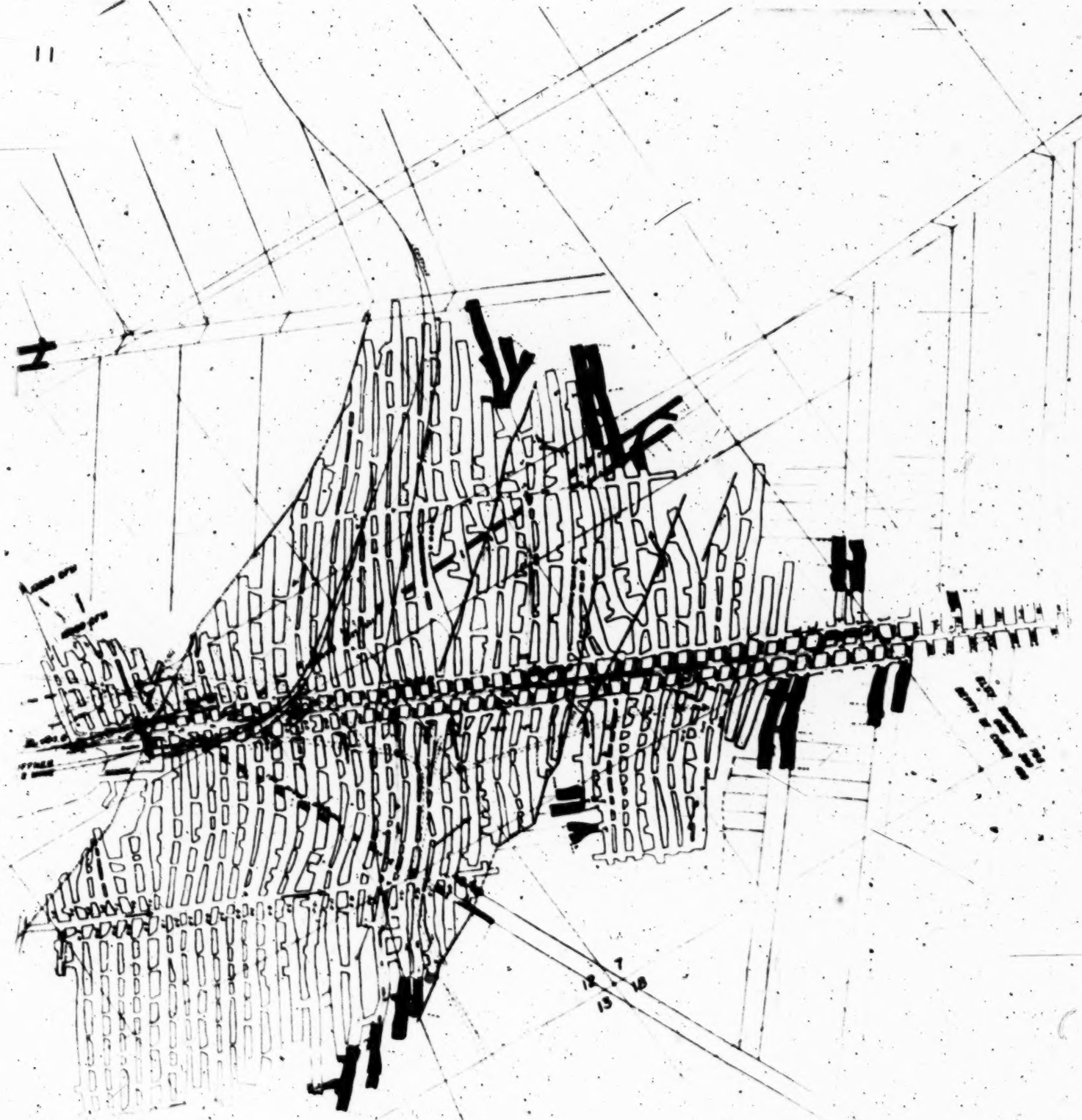
TOWNSHIP 19 SOUTH, RANGE 4 WEST




TOWNSHIP 19 SOUTH, RANGE 4 WEST.
LEGEND
PROGRESS OF DEVELOPMENT
DIRECTION OF AIR CURRENTS
DISTANCES TRAVELED BY
DISTANCES
MAP OF
SLOSS ORE MINE
SLOSS-SHEFFIELD STEEL &

SLOSS EXHIBIT NO. 11





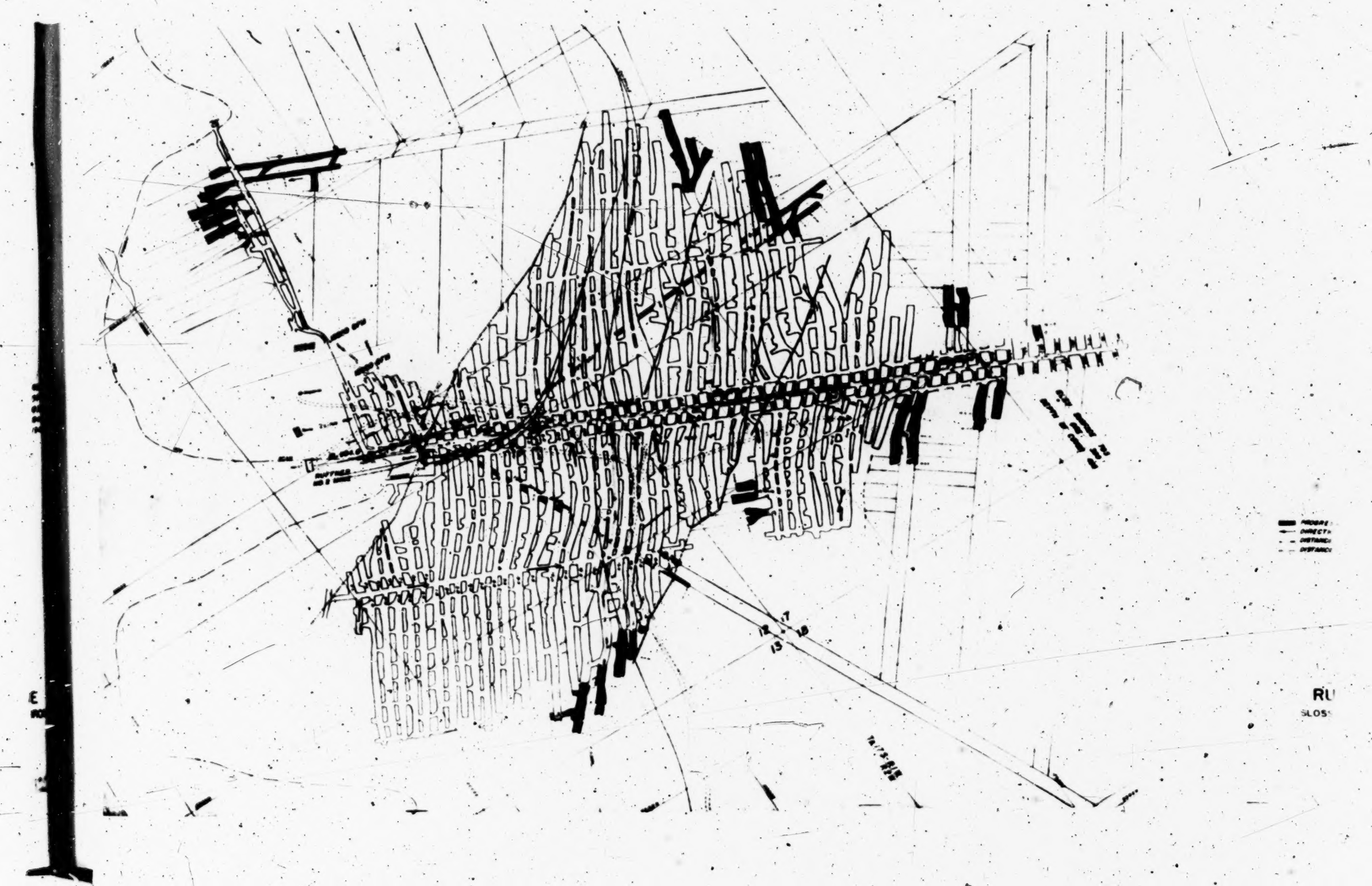
LEGEND

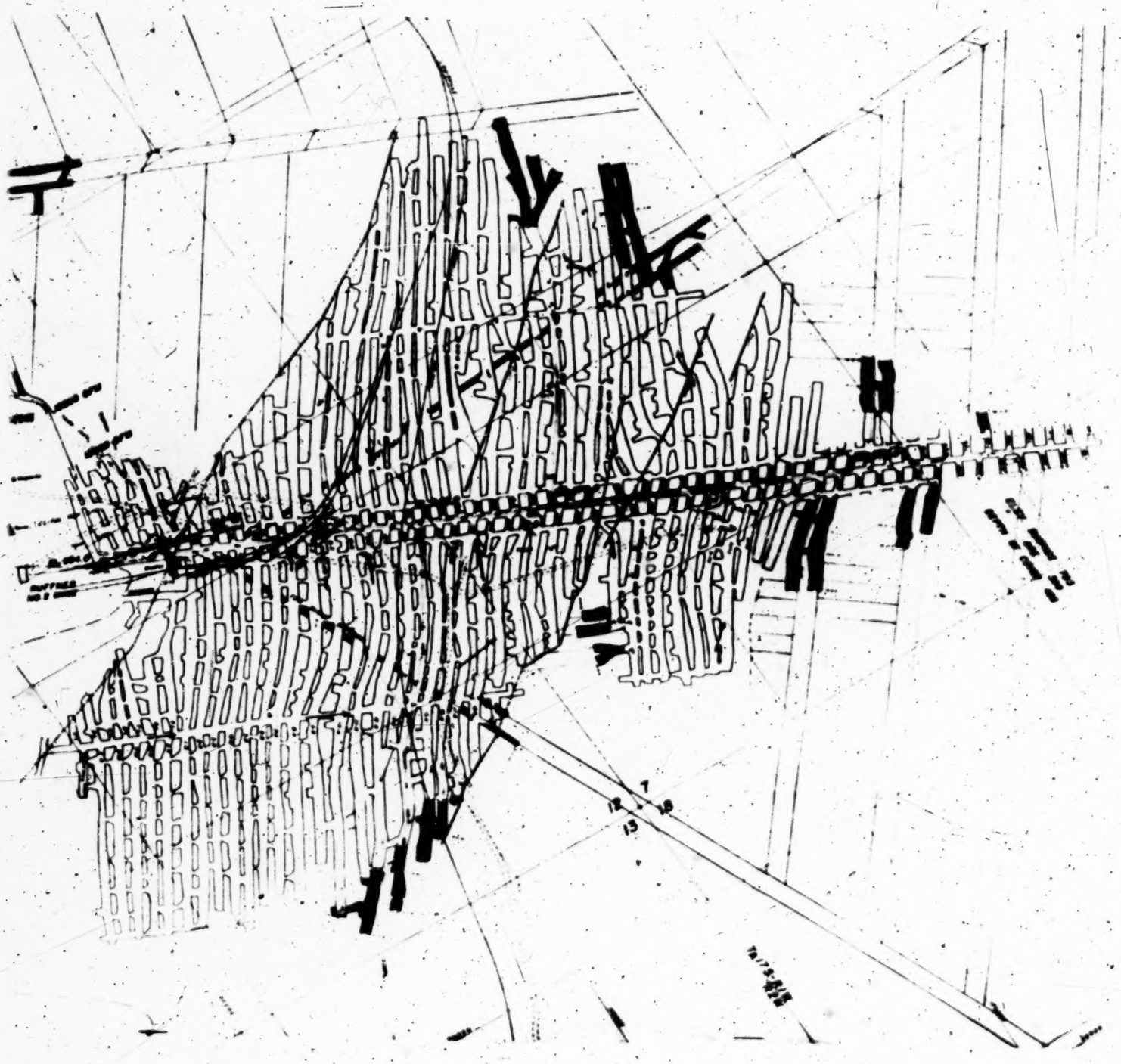
MAP OF

RUFFNER ORE MINE

LOSS - SHEFFIELD STEEL & IRON CO

BIRMINGHAM ALABAMA





LEGEND

- PROGRESS SINCE JULY 1 1940
- DIRECTION OF AIR CURRENTS
- DISTANCES TRAVELED BY FOOT
- DISTANCES RIDDEN

MAP OF

RUFFNER ORE MINE

SLOSS-SHEFFIELD STEEL & IRON CO

BIRMINGHAM, ALABAMA

SCALE

3713 SLOSS EXHIBIT No. 12.

1. That all employees of Sloss Red Ore Mines be given a 10 per cent increase in pay.

2. That the Sloss-Sheffield Steel & Iron Co. deduct from the aforesaid Company, Dues and assessments as designated by each employee of Sloss Red Ore Mines, the same to be paid to designated officer of Sloss Red Ore Local No. 109 I. U. of M. M. and S. W.

3. That the Executive Board of Sloss Red Ore Local No. 109 composed of seven (7) duly elected representatives of the employees of Sloss Red Ore Mines be recognized as the Grievance Committee for all collective Bargaining purposes for all employees of Sloss Red Ore Mines.

4. That the Company furnish Carbide for all employees.

5. That the eight (8th) day of May, Known as Emancipation Day, and November 11, Known as Armistice Day be added to the list of Holidays.

6. That all employees pay house rent in accordance with the days the Mines Operate, Using twenty-two days per month as basis for full time rent.

7. That the Blacksmith and the Drill Steel Sharpener be given one (1) helper each.

8. That Ivey Carrington be rated as Hanyman and do the work of Handy man.

9. That some adjustment be made in regard to the Crusher Man doing repair work.

10. That all employees trading in the Company Store be given an itemized ticket the same to be signed at time of purchase by the purchaser.

11. That all employees be paid each Saturday.

12. That all water pipes furnishing water to the Camps be repaired so as to give efficient service, and that the reservoir be cleaned at least once every six (6) months.

13. That the Camps be cleaned at least once each week and that each house be supplied with a garbage can.

14. That all employees moving or loading slate be paid for same by rate to be established by mutual agreement.

15. (a) That the Company and not the Contractors shall pay the engineer and chainer where same handle cars for two or more places.

(b) That the Company shall place cars in a reasonable distance to the working face.

(c) That in cases where Section A. and B. does not give the men an opportunity to shift, the Company will take full responsibility and pay the employees in these particular places at rate of miners on Company work.

16. That in case of breakdowns which hinder the employees from shifting, all employees in these particular places shall be paid for time lost on repairs.

17. That all employees entering the mines and not being permitted to work through no fault of their own shall be paid two (2) hours, or if detained more than two (2) hours shall be paid for same at rate of miner on Company work.

18. That some adjustment be made in regard to the following men on Company work: Motor Runners, Pumpmen, Electricians, Machinist, Blacksmith, Drill Steel Sharpner, Crusher Man, Crusher Feeders, Weighman, Engineers inside, Truck Drivers, Slope Scrapers and Spragger on top house.

19. That the hard and easy places on drag work be divided equally between Day and Night crews.

20. That the Company shall turn off all Drags Stope to a width of twenty-five (25) feet.

21. That all drag stopes driven under twenty-five (25) feet in width shall be paid yardage.

22. That all Contractors who are required to do the work of one (1) of their men shall receive pay for same.

23. That hand driven places be rated for places driven 12, 14, 16 and 18 feet in width.

24. That the hand loading places loading 42 tons per shift be given an equal share of cars in proportion with the places loading 36 tons.

25. That all Haulage Ways be classed as slope work and be paid for at slope work rate.

26. That a new rate be established by mutual agreement for the men loading in places 12 feet or less in width. (Slope Hdg. only.)

27. That men going into mines and not being able to work due to rock fall etc. shall be given work cleaning up Haulage ways or other work usually done on idle days.

28. That a number of emergency places be driven so as to give the men not having a place to work an opportunity to make a shift.

29. That the Heading or Han Loading Contractors be required to leave enough Powder and supplies for the opposite crew to make a shift with.

30. That no Ore trip shall leave the bottom on Day shift later than 3:15 o'clock and on night shift later than 2:15 o'clock.

31. That the Company shall deduct from all employees on Contract labor, a nominal sum, the same to be paid to the check-weighmen.

The following memorandum appears at the head of this memorandum in pencil:

"Received from Sloss Committee on Aug. 3, 1938. Advised committee it would be about Aug. 25th before we could again discuss this, which was satisfactory with them.

T. E. C."

The following memorandum appears at foot of this memorandum in pencil:

"This paper given me by O'Neal on August 18 at Sloss Shop. He asked that it be affixed to original contract presented us.

COSTNER."

3716 SLOSS EXHIBIT No. 13.

Sloss-Sheffield Steel & Iron Company

Birmingham, Alabama.

Continuation of Sloss Red Ore Mine Working Agreement.

Confirming understanding reached at conference between representatives of employees of our Sloss Red Ore Mine and the Management with reference to working agreement dated September 13, 1937 and which expires September 13, 1938, it is hereby agreed to extend this agreement for 12 months and expiration date is hereby changed to September 13, 1939.

SLOSS-SHEFFIELD STEEL & IRON COMPANY,
By BEN DAVIS.
EMPLOYEES' REPRESENTATIVES,
JOHN HILL,
JESSE GAINES,
J. W. GILBERT,
W. A. O'NEAL.

Dated this 3rd day of September, 1938.

3717 SLOSS EXHIBIT No. 14.

Agreement.

Section 1. This Agreement dated ..... and entered into by and between the Sloss-Sheffield Steel & Iron Company, (Hereinafter referred to as the Company) and Sloss Red Ore Local No. 109 of the International Union of Mine, Mill and Smelter Workers, (Hereinafter

referred to as the Union), on behalf of those employees employed in the production and Maintenance Departments of Sloss Red Ore Mines, located at or near Bessemer, Jefferson County, Alabama.

Section 2. (a) It is the intent and purpose of the parties hereto that this Agreement will promote and improve the industrial and economic relationship between the employees of the Company employed in the production and Maintenance Departments of Sloss Red Ore Mine and the Company.

(b) The term employee used in this Agreement does not include the foremen or supervisors who do not perform any regular work.

Section 3. Recognition: The Company recognizes the Union, as the sole and exclusive collective bargaining agency for those employees employed in the production and maintenance Departments of Sloss Red Ore Mine, for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

Section 4. Holidays: The following Holidays shall be observed by the Company: May 8, (Emancipation Day); July 4, (Independence Day); Labor Day; Thanksgiving Day; and Christmas.

Section 5. Hours of Work: Eight (8) hours shall constitute a days' work and forty (40) hours shall constitute a weeks' work. Time and one-half shall be paid for all work in excess of eight (8) hours in any one day or forty (40) hours in any one week.

(b) Provided no employee shall be paid both daily and weekly overtime for same hours worked.

Section 6. Vacations: Each employee who has completed one or more years service with the Company prior to February 1, 1940, or subsequent thereto, shall receive one day's vacation with pay for each year of service with the Company, provided no employee shall receive more than ten (10) days vacation with pay in any one year. Total hours of vacation pay shall be based upon the average rate of earnings per hour for the two pay periods immediately preceding their vacation, provided it shall not be less than eight hours per day nor forty hours per week. Provided further, the annual vacation shall be given in a single period.

Section 7. Seniority: Seniority shall govern in all cases of promotion and increase or decrease in forces. Provided further, that seniority shall be based upon length of continuous service and eligibility.

Section 8. Check-Off: The Company shall deduct from each of its employees wages covered by this Agreement upon presentation of an order signed by such employee such dues and assessments as authorized in said order, provided dues shall not exceed $1.00 in any one pay period, the order to be for period covered by this Agreement unless revoked by employee in writing.

(a) Initiation Fees: (Not to exceed $10.00 for any one man and in sums not to exceed $2.00 in any one pay-period per man), where proper written authorization has been made to the Company by the employee, shall be deducted by the Company.

(b) The Company shall remit to the Officer of the Union authorized in the Order above mentioned an itemized list of the names and amounts deducted from each employee not later than the 10th day of each month after said deductions have been made.

(c) In case any worker shall enter suit or process against the Company for the amount of dues or assessments paid under this section pursuant to such check-off paid to the Union, Sloss Red Ore Local 109, I. U. of M. M. & S. W. will reimburse the Company the amount of any loss sustained by the Company by reason thereof, including cost and expense of the suit.

Section 9. Grievances and Methods of Adjustments: If any employee, or employees, shall consider that he, or they, have any grievance against the Company an earnest effort shall be made to adjust such grievance as quickly as possible by the following successive steps:

(a) Between employee and his foreman.

(b) Between Mine Committee and Foreman.

(c) Between Grievance Committee and Superintendent of Mine.

(d) Between Grievance Committee or Representatives of the Union and the Representatives of the Management or the Company.

(e) If said Committees shall arrive at a decision on such Grievance it shall be reduced to writing and signed by a majority of each Committee and copies thereof shall be given to the Union and the Company and shall be deemed to have finally settled such controversy.

(f) If any such controversy or grievance arising under the terms of this Agreement cannot be amicably adjusted and settled in the manner herein provided, the same shall be promptly submitted to a Board of Arbitration to be selected as follows: Two (2) to be chosen without delay by the Company, and Two (2) to be chosen without delay

by the Union, and the fifth to be chosen within five (5) days by the first four; if the first four members cannot agree upon the fifth man within ten (10) days, the latter shall be a conciliator of the Department of Labor to be selected by the then Director thereof. The decision of such Board of Arbitration shall be rendered without delay, and the decision of a majority of said Board shall be final and binding on all parties involved in such controversy or grievance and shall conclusively determine same.

(2) If it shall be determined at the end of the negotiations and hearings as hereinabove mentioned, that an employee or employees shall have been discharged without just cause, the Company shall immediately reinstate the employee, or employees, and compensate same for time lost at regular rates of pay.

(3) It is expressly understood and agreed that any employee having any grievance against the company it shall be presented to the Company in writing within five (5) days after cause for grievance, otherwise such grievance will not be considered by the Company or the Union.

Section 10. It is distinctly understood that the Management of the mine and the direction of the working forces are vested exclusively in the Company.

(b) There shall be no stoppage of work either by the Company or the Union, until full procedure of methods of settling grievances as outlined in this Agreement have been complied with.

Section 11. Any change in mining methods or installation of machinery that relieves or hinders the employee of any of the duties incidental to his regular work and/or increases or decreases his productive capacity shall be recognized and a new piecework rate shall be established by

agreement between the company and the Union in accordance with the previous earnings of the men employed thereon.

Section 12. After an employee has reported either for regular work or at the request of the Foreman, he shall receive two (2) hours pay whether the mines operate two hours or not, provided the work is not interrupted by a Labor dispute.

Section 13. When an employee working on piecework is required by mine officials to leave his work at the face and perform other work he shall be paid at the rate for a miner on Company work.

Section 14. When an employee has no work at the face, and is given other work, he shall be paid at the scale for such labor.

Section 15. In event of any kind of shut down, the employees shall be permitted to trade in the Company store until he or they are put back to work. Upon resumption of operations the employees' wages shall be cut in accordance with his ability to pay.

Section 16. The Tally Sheets shall be so kept that all ore loaded on each shift shall be placed on the sheet for each particular day.

Section 17. The Company shall keep the working places as dry as possible to do so, where wet places are driven, the amount of pay for the extra inconvenience shall be agreed upon between the mine foremen and the miner affected.

Section 18. All stopes 12 feet or less in width will be paid for at the rate of $17.80 per Lin. Yd.

All Stopes not over 15 feet in width nor less than 12 feet in width will be paid for at the rate of $15.00 per Lin. Yd.

All Stopes 18 feet will be paid for at the rate of $9.90 per Lin. Yd.

Section 19. A timber crew and a pipe man shall be placed on night shift.

Section 20. All idle day work shall be equally divided between the men working night and day at the mines.

Section 21. A man trip shall be run on both the 55 L. and 48 R. slopes at the end of each shift.

Section 22. (a) The day shift shall begin hoisting ore at 7 A. M. and quit at 3:15 P. M. and the night shift shall begin hoisting ore at 6 P. M. and quit at 2:15 A. M.

(b) The mantrip shall leave 48 L yard at 3:20 P. M., on day shift at 2:20 A. M. on night shift.

Section 23. That a committee be chosen by the Union to investigate all accidents, both on the day and night shifts, and that a copy of the findings of this committee be sent to the Safety Engineer of the Company, the Mine Superintendent, and a copy be retained in the files of the Union.

Section 24. That a drill steel sharpener helper and a machinist helper be added to the force now working in the shop.

Section 25. That the Contractors be given more authority over their working places and in the handling of their labor.

Section 26. The revised wage rates hereto attached will be the prevailing rates of pay for the duration of this Agreement.

Section 27. This Agreement shall become effective on the .... day of ....., 19.., and shall be operative and remain in full force and effect for one (1) year from said date and from year to year thereafter, subject, however, to the right of either party to terminate the agreement at the end of any yearly period by written notice given to the other party not more than thirty (30) days prior to nor less than fifteen (15) days prior to the end of any such year. This Agreement may be amended or revised in any its provisions during its existence, provided such amendments or revisions are approved, in writing, and subscribed to by the Union and the Company.

Section 28. That a contractor be allowed only one contract place.

In Testimony Whereof; witness the signatures and seals of the undersigned, this ... day of ....., 1939.

SLOSS-SHEFFIELD STEEL & IRON COMPANY,

By .....

As .....

By .....

As .....

By .....

As .....

SLOSS RED ORE LOCAL #109, I. U. of M. M. & S. W.,

By .....

As President.

By .....

As Vice-President.

By .....
As Chairman Executive Board.
INTERNATIONAL UNION OF MINE, MILL AND SMELTER WORKERS,
By .....
As International Representative.

3724 SLOSS EXHIBIT No. 15.

Agreement.

Section 1. This agreement dated September 9th, 1939, and entered into by and between the Sloss-Sheffield Steel & Iron Company, (hereinafter referred to as the "Company") and Sloss Red Ore Local No. 109 of the International Union of Mine, Mill and Smelter Workers, (hereinafter referred to as the "Union") on behalf of employees employed in the Production and Maintenance Departments of the Sloss Red Ore Mine, located at Bessemer, Alabama.

Section 2. The term employee used in this Agreement does not include foremen, supervisors, technical and clerical employees.

Section 3. The Union shall be and is hereby recognized as the exclusive bargaining agency for the employees in the Production and Maintenance Departments for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment and other conditions of employment.

Section 4. The following Holidays shall be observed by the Company—Independence Day, Labor Day, Thanks-

giving Day and Christmas Day; except for necessary maintenance or repair work, and those employees whose occupations require continuous duty.

Section 5. (a) Eight hours work per day shall constitute a day's work and forty hours shall constitute a week's work. The eight hours per day means eight hours of work at the usual working place, exclusive of the lunch period.

The Company shall have the right during the life of this Agreement to operate the mine one, two or three eight-hour shifts by different crews of men within each twenty-four hour period.

(b) The eight hours per shift will not apply in case of accidents or breakdowns which may temporarily necessitate longer hours for those employees required on account thereof, and also excepting the number of men required to handle man trips, and those required to remain on duty while men are entering or leaving the mine.

(c) Time and one-half shall be paid for all work performed in excess of eight hours per day or forty hours per week excepting a few occupations where application of this rule is not practical.

Section 6. (a) The duties of the Mine Committee shall be confined to the adjustment of disputes arising from this Agreement with the employees represented by them that the mine management and employee, or employees, have failed to adjust. The Mine Committee shall have no other authority nor exercise any other control, nor in any way interfere with the operation of the mine. The Mine Committee has no authority to direct the working forces in or about the mine or any part thereof. For violation of these clauses or any of them the Committee or any member

thereof shall be immediately removed from the Committee, and shall be ineligible to serve as a committeeman for six months thereafter.

Section 7. If an employee, or employees, shall consider that he or they have any grievance against the Company, an earnest effort shall be made, subject to the terms and provisions of this contract, to adjust same by the following successive steps:

(a) Between employee and his foreman.

(b) Between Mine Committee and Superintendent of the Mine.

(c) Between Mine Committee or Representatives of the Union and the General Superintendent of Ore Mines.

(d) If such grievance arising under the terms of this contract is not adjusted and settled in the manner herein provided, then such grievance, that has not been settled by one of the modes aforesaid provided, shall be submitted to a Board of Arbitration, who shall be appointed to consider such unadjusted grievance, and shall be selected as follows: Two (2) to be chosen by the Company and two (2) to be chosen by the Union, and these four to choose a fifth member within ten (10) days. If these four fail to agree upon the fifth member, then within ten additional days he shall be chosen by the President of Sloss-Sheffield Steel & Iron Company and the Board Member of District 5 of the International Union of Mine, Mill and Smelter Workers. The decision of such Board of Arbitration shall be rendered without unreasonable delay, and the decision of a majority of said Board shall be final and binding on all parties involved in such grievance. Any expense incurred by the arbitrators shall be borne equally by the Company and the Union.

(e) There shall be no stoppage of work either by the Company of the Union, until full procedure of methods of settling grievances as outlined in this Agreement have been complied with.

Section 8. It is understood and agreed that Section 7 (d) (Settlement of Grievances) shall not be effective in the arbitration of wage increases, wage reductions or wage adjustments.

Section 9. If it shall be determined that an employee has been discharged or suspended without just cause, the Company shall immediately reinstate the employee and compensate same for time lost at his regular rate of pay.

Section 10. It is distinctly understood that the Management of the mine and the direction of the working force, and the right to hire and discharge are vested exclusively in the Company.

Section 11. Any change in mining methods or installation of machinery that relieves or hinders the employee of any duties incidental to his regular work and/or increases or decreases his productive capacity shall be recognized and a new piecework rate shall be agreed to therefor, and same shall be properly related to the basic rates for such work.

Section 12. Whenever an employee has been directed by the foreman to proceed to his usual working place in the mine and is then subsequently ordered by the foreman to return to the surface without having been permitted to perform any work, he shall be entitled to two hours' pay, providing the work is not interrupted by labor dispute.

Section 13. When an employee working on piecework is required by mine officials to leave his work at the face

and perform other work, he shall be paid at the rate for a miner on Company work.

Section 14. When an employee has no work at the face, and is given other work, he shall be paid at the scale for such labor.

Section 15. In the event of a shut-down and if the Company gives the employees credit to purchase provisions and supplies at the Company Commissary, on resumption of operations the employees' wages shall be cut in accordance with his ability to pay.

Section 16. It is agreed to observe during the life of this contract the same practices and customs in regard to the promotion, or increases and decreases in the working forces, as have been practiced in the past.

Section 17. This contract shall not conflict with any present State or Federal law, or laws that may be enacted during the life of said Agreement.

Section 18. The wage rates attached hereto will be the prevailing rates of pay for the duration of this Agreement.

Section 19. (a) It is agreed that hourly and tonnage workers, who have had five or more years of continuous service, will be entitled to five days vacation with pay, the amount to be determined as follows:

Tonnage Workers: Average daily earnings for the last four pay periods prior to vacation, times 5.

Hourly Workers: Regular daily rate, times 5.

(b) During the five year period prior to June 1st, 1940, any employee who voluntarily left the service of the Com-

pany for one or more days will not be entitled to vacation pay.

(c) An emplo ee must be in the active service of the Company at time of allotment of vacation to be entitled to same and vacations will, so far as possible, be granted at times most desired by the employees but the final right to allotment of vacation period is exclusively reserved to the Company in order to insure the orderly operation of the plant.

(d) Service will be considered continuous where employee has not been off payroll more than three months in the past year prior to June 1st, 1940, or a total of fifteen months in past five years prior to June 1st, 1940, through being laid off by the Company account of curtailed operations.

Section 20. This Agreement may be amended or revised in any of its provisions during its existence, provided such amendments or revisions are approved in writing, and subscribed to by the Union and the Company.

Section 21. It is agreed that in event general wage advances are granted or decreases made to red ore miners by a majority of the red ore producing companies in this district during the life of this agreement, it is understood that the question of consisting wage adjustments for Sloss employees will then become a subject for collective bargaining under terms of this agreement.

Section 22. This agreement shall become effective on the 16th day of September, 1939, and shall be operative and remain in full force and effect for one (1) year from said date and from year to year thereafter, subject, however, to the right of either party to terminate the agreement at the end of any yearly period by written notice

given to the other party not more than thirty (30) days prior to nor less than fifteen (15) days prior to the end of any such year.

In Witness Whereof, witness the signatures of the undersigned, this 9th day of September, 1939.

SLOSS-SHEFFIELD STEEL & IRON COMPANY,
By BEN DAVIS,
SLOSS RED ORE LOCAL #109,
I. U. of M. M. & S. W.,
By JOHN HILL,
President.
By JESSE GAINES,
Vice President.
By W. H. GUNTER,
Chairman Executive Board.
By VAN D. JONES,
Board Member District #5,
I. U. of M. M. & S. W.

Red Ore Mines.

Outside Rates.

Occupation	Hourly Rate	Amount per Shift	Hours per Shift
Truck Driver	$ .490	$3.92	8
Teamster	.455	3.64	8
Engineers—Main Hoist	.720	7.20	10
Dumpers	.485	3.88	8
Tipplemen	.485	3.88	8
Conveyor Men	.485	3.88	8
Weighmen	.625	5.62	9
R. R. Car Loaders	.485	3.88	8
Crusher Men	.585	4.68	8
Machinist	.770	6.16	8
Machinist Helper—1st Class	.520	4.16	8

Machinist Helper—2nd Class	.490	3.92	8
Blacksmith	.795	6.36	8
Blacksmith Helper	.490	3.92	8
Carpenter	.600	4.80	8
Carpenter Helpers	.455	3.64	8
Car Repairman	.585	4.68	8
Car Repairman Helpers	.530	4.24	8
Drill Sharpener	.690	5.52	8
Compressor Man	.645	5.81	9
Watchman	.465	3.72	8
Laborers	.40	3.20	8
Slate Pickers	.40	3.20	8
Ore Inspector	.53	4.24	8

Note: One and one-half times the above hourly rates will be paid for all time in excess of eight (8) hours per day or forty (40) hours per week, excepting supervisors, foremen and a few occupations, where application of this rule is not practical.

Red Ore Mines.

Inside Rates.

Occupation	Hourly Rate	Amount per Shift	Hours per Shift
Company drillers	$ .705	$5.64	8
Driller helpers	.625	5.00	8
Motormen	.635	5.08	8
Coupler	.550	4.40	8
Rockmen	.635	5.08	8
Rockmen helpers	.545	4.36	8
Track cleaners	.506 Ton	—	—
Timbermen	.635	5.08	8
Timbermen helpers	.545	4.36	8
Pipemen	.585	4.68	8
Pipemen helpers	.545	4.36	8

Chainers-Contract—.022 and .01815 ton, amount per shift based on production.

Company chainers	.575	4.60	8
Company chainer helpers	.550	4.40	8
Engineers—Main hoist	.705	5.99	8½
Engineers—Auxiliary hoist	.635	5.08	8
Stablemen	.585	4.68	8
Rock, Timber and Track Foremen	.705	5.64	8
Trackmen	.635	5.08	8
Trackmen helpers	.545	4.36	8
Roller men	.555	4.44	8
Pumpers	.555	4.44	8
Electric repairmen	.745	5.96	8
Machinist	.745	5.96	8
Miner on company work*	.625	5.00	8

* See items 13 and 14 for application.

Note: One and one-half times the above hourly rates will be paid for all time in excess of eight (8) hours per day or forty (40) hours per week, excepting supervisors, foremen and a few occupations where application of this rule is not practical.

Sloss Red Ore Mine.

Yardage Rates.

Slopes, 12′ wide or less	$17.80 per lin. yd.
Slopes, 18′ wide	9.90 per lin. yd.
Headings, 18′ wide, or less	9.90 per lin. yd.
Upsets	7.85 per lin. yd.
Stope necks, 12′ wide or less	17.80 per lin. yd.
Stope necks, 15′ wide or less	13.90 per lin. yd.
Stope necks, 18′ wide or less	9.90 per lin. yd.
Splitting a single stope into a double stope	25.00 per lin. yd.

Division of Tonnage Rate to Men of Crews.

Hand Loaded Ore.

Occupation—	Entries or Stopes Over 18 Feet in Width, 5 Man Crew: Number Men	Entries or Stopes Over 18 Feet in Width, 5 Man Crew: Rate per Ton	Entries or Stopes Over 18 Feet in Width, 6 Man Crew: Number Men	Entries or Stopes Over 18 Feet in Width, 6 Man Crew: Rate per Ton	Entries 18 Feet or Less in Width, 5 Man Crew: Number Men	Entries 18 Feet or Less in Width, 5 Man Crew: Rate per Ton
Drill Man	1	$.129	1	$.109	1	$.153
Drill Man	–	.112*	–	.112*	–	—
Drill Man Helper	1	.116	1	.098	1	.138
Muckers	3	.351	4	.389	3	.417
Total	5	$.708	6	$.708	5	$.708

* To credit of Day Shift Drill Man for Explosives and Tools.

Drag Loaded Ore.

Occupation—	10 Man Crew (5 Men on Day 5 Men on Night)		12 Man Crew (6 Men on Day 6 Men on Night)		13 Man Crew (7 Men on Day 6 Men on Night)		15 Man Crew (8 Men on Day 7 Men on Night)	
	Number Men	Rate per Ton	Number Men	Rate per Ton	Number Men	Rate per Ton	Number Men	Rate per Ton
Head Miner	1	$.057	1	$.048	1	$.045	1	$.041
Head Miner	--	.110*	–	.110*	–	.110*	–	.110*
Drag Engineer—Night Shift	1	.046 (1)	1	.039 (2)	–	—	–	—
Drag Engineers— (1 Day—1 Night)	–	—	–	—	2	.070	2	.062
Drill Men	2	.093	4	.152	4	.139	4	.121
Drill Men Helpers	2	.081	2	.066	2	.061	2	.053
Muckers	2	.081	2	.066	2	.061	4	.106
Haulage Engineers	2	.071	2	.058	2	.053	2	.046
Total	10	$.539 (3)	12	$.539 (3)	13	$.539 (3)	15	$.539 (3)

* To credit of Head Miner for Explosives and Tools.

(1) Pay $.092 on Night Shift Tonnage only—No credit for Day Shift Tonnage.

(2) Pay $.078 on Night Shift Tonnage only—No credit for Day Shift Tonnage.

(3) For ore loaded by drags in headings, total tonnage rate will be $.554.